

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**



# 76-1070

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P/S

IN THE  
**United States Court of Appeals**  
For the Second Circuit

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UNITED STATES OF AMERICA,  
*Appellee,*  
*against*

WILLIAM E. DOULIN,  
*Defendant-Appellant.*

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On Appeal from the United States District Court  
for the Southern District of New York

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**APPENDIX**  
**VOLUME III OF FIVE VOLUMES**  
(Pages 589 to 840)

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1 gwjw 1

2 UNITED STATES OF AMERICA

3 -against-

75 Crim 630

4 WILLIAM E. DOULIN

5  
6 November 11, 1975  
10:00 A.M.

7  
8 Trial Resumed

9 (In open court - jury present)

10  
11 RICHARD GEORGE MONELL,

12 resumed the stand, having been previously sworn,  
13 testified as follows:

14 THE COURT: Good morning, ladies and gentlemen.

15 I note everyone here promptly. That is  
16 appreciated.

17 The first order to be given today was given  
18 by the jury and seconded by the rest of us, that is,  
19 that the windows be open. They are now open to let in  
20 some very nice fall weather.

21 We are going to be resuming now. You will  
22 recall that Mr. Monell was on the stand when we adjourned  
23 last yesterday. We are going to proceed now with his  
24 redirect examination by Mr. Schwartz.

25 I do want to tell the jurors who left so late

1 gwjw 2

Monell - cross

590

2 last night that I apologize for keeping you. At the same  
3 time, I appreciate your careful consideration and patience.

4 I represent to you now that you will not be  
5 leaving after 5:00 o'clock today.

6 Mr. Monell, you will be resuming your testimony  
7 under the oath that was administered when you first took  
8 the stand at the end of last week.

9 Do you understand that, sir?

10 THE WITNESS: Yes, sir.

11 THE COURT: Very well.

12 MR. PLATZMAN: May it please the Court, I  
13 have spoken with Mr. Schwartz and, with the Court's  
14 permission, I have just one question.

15 THE COURT: Certainly. Go right ahead. If  
16 you have more than one, you can ask that as well.

17 MR. PLATZMAN: Just one.

18 CONTINUED CROSS EXAMINATION

19 BY MR. PLATZMAN:

20 Q Mr. Monell, did you have a permit for the  
21 gun that you were carrying in 1968?

22 A No.

23 MR. PLATZMAN: That's all.

24 MR. SCHWARTZ: May I proceed, your Honor?

25 THE COURT: You may.

REDIRECT EXAMINATION

BY MR. SCHWARTZ:

Q Mr. Monell, do you remember being asked yesterday on cross examination whether you had committed any crimes other than those you told the jury about?

A Yes.

Q Did you ever purchase a stolen credit card?

A Yes.

Q When was that, approximately?

A 1971.

Q While you were in the Marines did you ever steal a car?

A Yes.

Q Do you also remember being asked yesterday on cross examination what dates you were in New York after you had left Orange or Ulster County after your assault case?

A I remember the question, yes.

Q Let me show you an exhibit which has been marked 3505 for identification and point to the first page and see if that refreshes your recollection along with Exhibit 3506, which is a one-page exhibit. Why don't you look at those and tell me when you are finished.

(Pause)

2 A I'm finished.

3 Q Do you recall after looking at that the approxi-  
4 mate dates that you were in New York in 1974?

5 A September.

6 Q After that?

7 A November.

8 Q Was it on your September visit that you  
9 appeared before the grand jury?

10 A Yes.

11 Q Do you remember Mr. Platzman asking you  
12 yesterday about your testimony in the grand jury?

13 A Yes.

14 Q Do you recall he asked you whether Mr. Doulin's  
15 name had ever been mentioned by you when you were inter-  
16 viewed by government agents or when you appeared in the  
17 grand jury?

18 A Yes, I remember.

19 Q Let me direct your attention to page 10 of  
20 Exhibit 3505. I will point to lines 15 through 20.  
21 Would you read those to yourself.

22 (Pause)

23 Have you completed reading it?

24 A Yes.

25 Q Now do you recall whether Mr. Doulin's name had

been mentioned?

A Yes.

Q Was it?

A Yes.

Q Thank you.

Do you also remember yesterday, Mr. Monell, being asked about various conversations with your grandmother?

A Yes.

Q Let me direct your attention, Mr. Monell, to the time that you were going to enter your guilty plea to your assault charge.

Do you recall that?

A Yes.

Q Do you remember approximately when that was, Mr. Monell?

A No.

Q Do you remember whether you were having Family Court problems at the same time?

A Yes, I was.

Q I can't hear you.

A Yes, I was.

Q Do you remember when you had your Family Court problems?

A The date, no.

Q Can you tell us approximately?

A No.

Q Let me show you Government Exhibit 1 in evidence. I will point to a line which states, "Date of Trial, 12/14/70. Defendant and N. Shapiro present. Pled guilty."

Does that sound right to you, that it was December 14, 1970 that you pled guilty?

A Yes, around that time, around Christmas.

Q Please speak up.

A Yes, around that time.

Q You mentioned the holiday.

A Yes, around Christmas.

Q Before you pleaded guilty to the charge -- what charge was it that you pleaded guilty to?

A Attempted assault second.

Q Before you pleaded guilty, did you know what you were going to plead guilty to?

A Yes.

Q How did you know that?

A My grandmother had advised me that's what I was supposed to do.

Q Did you know what your sentence was going to

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gwjw

Monell - redirect

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be when it was time for you to be sentenced?

A I knew what it was supposed to be, yes.

Q How did you know that?

A My grandmother told me.

Q That was before you pleaded guilty?

A Yes.

Q As a result of the conversation you had with your grandmother where you were told what the plea would be and what the sentence would be, you then pleaded guilty; is that correct?

A Yes.

MR. PLATZMAN: May it please the Court, I hope that your Honor's ruling concerning these conversations with respect to my objection, that the admonition to the jury still stands.

THE COURT: Yes, I deem that you have a continuing objection to questions which relate to conversations among the family and Flo Hall.

MR. PLATZMAN: Thank you very much.

THE COURT: The same admonition would apply. These are offered subject to connection.

MR. SCHWARTZ: I have no further questions, your Honor.

THE COURT: Thank you.

2 MR. PLATZMAN: I have no other questions.

3 THE COURT: Mr. Monell, you are excused.

4 You may leave.

5 (Witness excused)

6 MR. SCHWARTZ: The government calls Mr.  
7 Foley, your Honor.

8 THE COURT: Mr. Foley, please. What is his  
9 full name?

10 MR. SCHWARTZ: Francis J. Foley.

11 THE COURT: Thank you.

12 (Pause)

13 MR. SCHWARTZ: Apparently Mr. Foley has not  
14 arrived, your Honor.

15 We thought they would be here at 10:00. They  
16 were supposed to be, your Honor.

17 THE COURT: Do you have another witness?

18 MR. SCHWARTZ: There are two witnesses that  
19 are coming together, supposed to arrive at 10:00 o'clock,  
20 your Honor.

21 THE COURT: Did these perhaps go to your office  
22 by accident?

23 MR. SCHWARTZ: No, your Honor. They were  
24 here yesterday and they knew to come directly to the  
25 courtroom. We will check and see if they are waiting outside.

THE COURT: I just hear a door out there. Go back out.

(Pause)

MR. SCHWARTZ: We can't locate them, your Honor.

I do have a suggestion if we can approach the side bar.

THE COURT: Yes.

(At the side bar)

MR. SCHWARTZ: I do have a witness here who the government intended to present on the question of materiality which, of course, is not a jury question. I spoke to Mr. Platzman. The government had planned to offer this testimony out of the presence of the jury, and I think at least initially Mr. Platzman agreed with that.

I don't want to put him on the spot. We didn't discuss it at length. If we can agree to that, we might proceed with that witness.

MR. PLATZMAN: There may be some real serious questions, factual questions, concerning materiality. I'm not so sure that this isn't a jury question.

My initial gut reaction is that it is. I have no objection to starting on that basis so that your Honor can make a decision as to whether it is or isn't a question

2 of law, so that the jury is not prejudiced if it turns  
3 out to be a question of law in your opinion.

4 Then, if necessary, we can return to the  
5 presence of the jury.

6 THE COURT: Let's have an offer of proof as to  
7 what this witness is.

8 MR. SCHWARTZ: The witness that is here, your  
9 Honor, is a member of the 1975 addition grand jury. I  
10 expect he would testify that that grand jury was investi-  
11 gating to determine whether there was any corruption by  
12 lawyers or any public official or quasi public officials  
13 in the Orange nounty area and other areas.

14 In particular, they were interested in deter-  
15 mining whether there had been any payoffs to fix gambling,  
16 organized crime or other cases in connection with that  
17 investigation.

18 The Monell case came to their attention. Mr.  
19 Doulin's name was mentioned in connection with that case.  
20 The grand jury wanted to hear Mr. Doulin's testimony to  
21 find out if he knew about any fixes and, if he did, who  
22 it was, who was involved in the fix and who was able to  
23 influence any kind of case in Orange County.

24 In addition to that, the other witness who was  
25 part of the organized crime grand jury, the first one,

2 would testify to similar testimony concerning the scope  
3 of their investigation. In addition to that, they handed  
4 down about half a dozen indictments which I plan to  
5 offer to the Court, but not in the presence of the jury,  
6 which indictments related to organized crime, gambling in  
7 Orange County, in that area, as well as bribery and gambling  
8 and influencing the local law enforcement.

9 In connection with that, there was grand jury  
10 testimony that Mr. Doulin was receiving hundreds of dollars  
11 a week to protect gambling operations in Newburgh and the  
12 area.

13 Finally, and this goes to the first witness,  
14 they were also investigating to see whether there had  
15 been any perjury committed in the Strike Force grand jury  
16 which would interfere with that grand jury's investigation.

17 THE COURT: It is the government's position  
18 that this is on a question of materiality which is a  
19 question of law for the Court?

20 MR. SCHWARTZ: Yes, your Honor. The government  
21 has cited some cases in its requests to charge.

22 We believe and are confident that materiality  
23 is a question for the Court to decide, not to be submitted  
24 to the jury for de novo consideration.

25 THE COURT: I would be inclined to agree.

1 gwjw

2 The government proposes to call these two  
3 grand jurors outside of the presence of the jury?

4 MR. SCHWARTZ: Yes, your Honor.

5 THE COURT: If counsel insists, I will honor  
6 your request that they testify in the presence of the  
7 jury. I would think that after due reflection you would  
8 consider that this is a question for the Court and, in  
9 any event, that it would be best that they testified  
10 outside of the presence of the jury.

11 However, I am prepared to honor your request  
12 that they appear before the jury and testify on the  
13 subjects at hand.

14 MR. PLATZMAN: If the Court concludes that  
15 this is a question of law, then obviously there is only  
16 one thing that could happen before it goes to the jury,  
17 and that would be that it would be highly prejudicial  
18 because a great deal of evidence would go in that is not  
19 part of this case.

20 THE COURT: I believe it to be a question for  
21 the Court.

22 MR. PLATZMAN: It is only if your Honor determines  
23 that it may be an issue of fact that I would want this  
24 to be tried before the jury. If your Honor rules that it  
25 is a question of law and it is not a question of fact,

1 gwjw

2 then I, of course, would want it tried before your Honor.  
3 I feel that anything concerning testimony of that type,  
4 which would be the kind of testimony that wouldn't get  
5 into this trial would be very highly prejudicial. I think  
6 it would probably be disruptive.

7 THE COURT: I believe that materiality here  
8 is a question for the Court and suggest by what you said  
9 that you feel that I have the right to rule on it. You  
10 may disagree with my ruling.

11 You have stated to me that if I rule that  
12 materiality is a question for the Court, you would prefer  
13 that the evidence on this issue be outside of the presence  
14 of the jury.

15 Have I stated your position correctly?

16 MR. PLATZMAN: Yes, your Honor. Perfectly.

17 THE COURT: Very well.

18 Off the record.

19 (Discussion held off the record)

d take

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1 Gmch

(In open court)

THE COURT: Ladies and gentlemen, I have been conferring with counsel. We have two matters that from the point of view of your own convenience I would like to deal with this way:

There are two witnesses who were supposed to be here at 10:00 o'clock. They are both from the Orange County area. They were here yesterday and I have every reason to believe that absent a flat tire or some other unfortunate occurrence they would have been here by now.

In addition to those witnesses who will be appearing before you this morning, we have a matter which is one which we have to take up outside of the presence of the jury. It requires certain things to be done. They are no concern of yours; you should not consider them. I had hoped to put the witnesses on and then, if necessary, while we work here, since the weather is nice, perhaps extended your lunch hour a little bit while we worked in the courtroom, and you could get a little fresh air.

At the moment now it is one-half hour after those witnesses were supposed to be here. It may be we will proceed to our own activity. We will wait for one or two minutes to see if they show up. If not, I will excuse the jury. I have no idea how long it will be.

1 2 GWmch

Tompkins-direct

2 I suggest at this point you bring the witness,  
3 the one who will testify outside the presence of the jury.

4 MR. SCHWARTZ: Mr. Jossen's witness is here.

5 THE COURT: We seem to have lucked out. I  
6 appreciate your indulgence.

7 MR. SCHWARTZ: I apologize to the Court.

8 MR. JOSSEN: The Government calls Gary Tompkins.

9 G A R Y F R E D T O M P K I N S, called  
10 as a witness by the Government, being first duly  
11 sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. JOSSEN:

14 Q Mr. Tompkins, please keep your voice up so  
15 everyone in the courtroom can hear you.

16 How are you employed, sir?

17 A I am employed by the Highland National Bank of  
18 Newburgh, formerly the National Bank of Orange & Ulster  
19 County.

20 Q In what capacity are you employed?

21 A I am assistant cashier, branch manager, of the  
22 Rosendale branch.

23 Q Where is that located?

24 A Rosendale, New York.

25 Q How long have you been so employed?

1 3 GwmcH

Tompkins-direct

2 A I have been employed at the Rosendale branch  
3 for approximately six years.

4 Q Mr. Tompkins, would you describe the type of  
5 records which are kept by the bank in connection with  
6 customer accounts?

7 A We keep the savings ledgers on savings accounts,  
8 checking account records, photocopies of all checks made,  
9 original of deposit tickets both from savings and checking  
10 and loans, various loan portfolios.

11 Q Mr. Tompkins, I have placed before you Government's  
12 Exhibits 14, 15 and 16 for identification.

13 Can you identify those exhibits, sir?

14 A Yes.

15 Exhibit 14 is the original ledger card which we  
16 keep in our files for the Account No. 4169 of Jean and  
17 William Grant, opened June 17, '69; closed November 16, '71.

18 Q Government's Exhibit 15, sir, would you identify  
19 that?

20 A Withdrawal slip signed by William V. Grant dated  
21 March 13, 1971, made payable to cash, for \$1,480.00.

22 Q Government's Exhibit 16, sir, can you identify  
23 that?

24 A This is a signature card for Account 4169 in the  
25 name of William V. Grant and Jean Grant, dated June 17, '69.

1 4 Gilmch

Tompkins-direct

2 Q Mr. Tompkins, are Government's Exhibits 14, 15  
3 and 16 records which are kept in the ordinary course of  
4 bus ness by the bank?

5 A Yes, they are.

6 Q Is it the ordinary course of business of the  
7 bank to keep such records?

8 A Yes.

9 Q Now, Mr. Tompkins, I place before you what has  
10 previously been marked as Government's Exhibit 17 for  
11 identification.

12 Would you examine that and tell us if you can  
13 identify it?

14 A This is the customer passbook on Account 4169  
15 in the name of Jean or William V. Grant.

16 MR. JOSSEN: At this time, your Honor, the  
17 Government offers in evidence Government's Exhibits 14,  
18 15, 16 and 17.

19 MR. PLATZMAN: I have no objection.

20 THE COURT: Received.

21 (Government's Exhibits Nos. 14, 15, 16 and 17  
22 were received in evidence.)

23 MR. JOSSEN: Your Honor, at this time the  
24 Government requests permission to pass these exhibits among  
25 the jury.

2 THE COURT: They have been received. You may do

3 so.

4 (Government's Exhibits Nos. 14, 15, 16 and 17  
5 were handed to the jury.)

6 MR. SCHWARTZ: Your Honor, may we approach the  
7 bench while the jury is examining those exhibits?

8 THE COURT: Yes.

9 (At the side bar)

10 MR. SCHWARTZ: While the witness we were expecting  
11 is not here yet, I understand Mrs. Grant is outside the  
12 courtroom and the Government would intend to proceed by  
13 calling Mrs. Grant.

14 THE COURT: Very well.

15 MR. JOSSEN: I have no further questions of this  
16 witness.

17 THE COURT: I would imagine the cross should be  
18 relatively brief of this witness.

19 MR. PLATZMAN: Very brief.

20 (In open court)

21 THE COURT: Ladies and gentlemen, I would remind  
22 you at this time that when you are deliberating on this  
23 case, should you require any of the exhibits which are  
24 received in evidence you need only send a note out to the  
25 Court and they will be sent into the jury room for you to

2 examine them during your deliberations, you will have them.  
3 You might keep that in mind.

4 (Pause)

5 MR. JOSSEN: Your Honor, I have no further  
6 questions of the witness at this time.

7 THE COURT: Very well. When the jurors have  
8 completed their inspection of the exhibits we will inquire  
9 if Mr. Platzman wishes to cross-examine.

10 (Pause)

11 MR. JOSSEN: Your Honor, if I might have one or  
12 two further questions of the witness.

13 Q Mr. Tompkins, I place before you what has  
14 previously been marked as Government's Exhibit 30 for  
15 identification.

16 Can you identify that for us, please?

17 A We have statement halves of checking account in  
18 the name of John H. Monell or DeLevine Monell, one dated  
19 June 1971 through July '71, the other May 28, '71 through  
20 June '71.

21 Along with that I have two photocopies of  
22 checks, one No. 549 signed by John H. Monell, for  
23 \$36.34, another No. 555 signed by John H. Monell in the  
24 amount of what appears to be \$6,470 -- -90.52; a photocopy  
25 of a deposit ticket dated July 28, 1971, of \$1,540.65  
for the account of DeLevine Monell, and a photocopy of a

1  
2 Treasury United States check for \$1,540.65, which appears  
3 to be the offset to the deposit.

4 I also have photocopy of a deposit ticket dated  
5 June 28, 1971, total of \$6,850, deposited to this account,  
6 with a photocopy of a check pay to the order of John  
7 Monell for \$4,400, drawn by an Albert William of Utica,  
8 which was in that deposit of \$6,850.

9 Q Are these records kept in the ordinary course of  
10 business by your bank?

11 A Yes, they are.

12 Q Is it the ordinary course of business that  
13 your bank keep such records?

14 A Yes, it is.

15 Q Please keep your voice up.

16 MR. JOSSEN: I have no further questions at this  
17 time, your Honor.

18 THE COURT: You may cross-examine, Mr. Platzman.

19 (Continued on next page)  
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gwjw 1

MR. PLATZMAN: As the witness has testified concerning this, I don't see the reason why it should not go into evidence.

THE COURT: You have no objection?

MR. PLATZMAN: I have no objection.

MR. JOSSEN: We have no objection.

THE COURT: 30, which is a combination of documents heretofore described, received. No objection.

(Government's Exhibit 30 received in evidence)

MR. PLATZMAN: I have no questions.

THE COURT: Thank you very much, Mr. Thompson. You are excused.

(Witness excused)

MR. SCHWARTZ: Your Honor, the government calls Jean Grant.

J E A N G R A N T , called as a witness by the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SCHWARTZ:

THE COURT: Mrs. Grant, would you please keep your voice up so all the jurors and the attorneys can

1 gwjw 2

Grant - direct

2 hear you.

3 THE WITNESS: May I say something? My voice  
4 won't come up. I have something wrong with my thyroid.

5 THE COURT: You do your best. Anything they  
6 do not hear, I will have the court reporter repeat.

7 MR. SCHWARTZ: May I proceed, your Honor?

8 THE COURT: You may.

9 Q Mrs. Grant, can you hear me?

10 A No, I can't.

11 Q Can you hear me, Mrs. Grant, if I stand over  
12 here? Are you able to hear me?

13 A Yes, but I can't understand you too good.

14 Q I will speak slowly. If you don't understand  
15 something, please tell me.

16 A Yes, please.

17 Q You can just stop me and tell me you don't  
18 understand and I will stop.

19 A I have a ringing in my head from my blood  
20 pressure. I can hear you fairly good now.

21 Q Good. Try your best to speak in a loud voice  
22 so everyone else can hear what you are saying. These  
23 people want to hear you. Okay?

24 A Okay.

25 Q Mrs. Grant, where do you live now?

Grant - direct

1 gwjw 3

2 A High Falls.

3 Q In Ulster County?

4 A In Ulster County.

5 Q How long have you lived there?

6 A Between five and six years. I don't remember.

7 I think in 1968 I think we went up.

8 Q Do you live in a trailer there?

9 A In a trailer.

10 Q Are there any other trailers on the property?

11 A My daughter and her husband.

12 Q Is that one other trailer?

13 A One other trailer.

14 Q Do you have a grandson named Richard Monell?

15 A I do.

16 Q Did he ever live on that property?

17 A He did.

18 Q Do you recall when that was?

19 A He was there when I went up in 1969.

20 Q How long did he live up there, if you remember?

21 A I'm sure I can't remember. At least two years

22 I think he was there. I'm not sure.

23 Q Did he have his own trailer?

24 A Yes, he had his own trailer.

25 Q Did he have his own trailer?

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Grant - direct

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A No, it belonged to my daughter.

Q How many trailers were there at that time?

A Three.

Q Did he live in one of the trailers?

A He lived in one of the trailers.

Q But the trailer was owned by your daughter?

A Owned by my daughter.

Q What is her name?

A Mrs. John Monell.

Q Is her first name DeLevine?

A Yes.

Q D-e-L-e-v-i-n-e?

A That's right.

Q Do you know William Doulin?

A I do.

Q Do you see him in the courtroom here?

A Yes, I do.

Q Where is he?

A Sitting right down there.

Q Could you point him out?

A Yes, right here. I should know him.

Q Excuse me.

A I should know him. I known him all my life.

I hope I don't forget him in the last few years.

Grant - direct

gwjw

MR. SCHWARTZ: Would the record reflect the identification?

THE COURT: Yes, I think counsel will concede the witness knows Mr. Doulin and has pointed him out.

Q How long have you known Mr. Doulin?

A Ever since my daughter has been born. She is going on 59. I have known him 59 years, maybe before that. Ever since I can remember I have known Bill Doulin.

Q Is he a friend of yours?

A Very good friend.

Q How long has he been a good friend?

A Ever since I have known him. We were neighbors.

Q Where was that?

A North Willow Street in Newburgh.

Q How long were you neighbors?

A I can't say. Many years, when my mother was living. She has been dead 54 years. I think we lived there about five years.

Q He was your neighbor then?

A He was my neighbor then.

Q Do you see him from time to time over the years?

A I see him plenty. I have seldom gone to Newburgh that I don't stop in and say hello.

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Grant - direct

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Q How often do you go to Newburgh?

A When I go down to visit my doctor, I stop and see William on my way down.

Q How long is that?

A I haven't been down to Newburgh now for -- I can't tell you just when. I have been down to Mr. Doulin's lately.

Q When was that?

A I can't tell you how many weeks ago, but it was a few weeks back.

Q What was that for?

A It was for a funeral.

Q Any other times recently you have been to see Mr. Doulin?

A I can't remember. I know I go down to him. I have never stopped going to him.

Q Did you ever speak to him on the telephone?

A Yes, plenty of times. I talked to his wife on the phone, Emma, whoever is there.

Q Do you know his children?

A No, I do not. I have never met the children.

Q Do you know a man named Abraham Weissman?

A I do not.

Q Do you know the name Abraham Weissman?

1 gwjw

Grant - direct

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2 A I heard of him.

3 Q Have you heard that he was the district attorney  
4 of Orange County?

5 A I don't remember.

6 Q You don't remember?

7 A No. I remember calling him on the phone.

8 Q When was that?

9 A I don't know whether he was the district  
10 attorney or not. The time the trial was going on. I  
11 called him and asked him when the trial was going to be,  
12 if I can find out. I never met the man. I have never  
13 seen him.

14 Q You say the trial.

15 Are you referring to the assault charge against  
16 Richard?

17 A That's right. When he was waiting to be tried  
18 I called Mr. Cohen and asked him if he could find out.

19 Would you like to know the answer that he gave  
20 me?

21 Q I'm not sure that you are permitted to give  
22 us the answer under the rules.

23 A I would like to tell you full details.

24 THE COURT: Counsel will ask you a number of  
25 question. He will develop the questions and he wants you

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Grant - direct

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to answer and do your best to answer them.

THEWITNESS: Okay. Thank you very much.

Q Do you know a man named Jerome Cohen?

A No, I don't.

MR. PLATZMAN: I think she mentioned it was  
Cohen.

THE COURT: Yes, I heard the name Cohen, too.

MR. PLATZMAN: I don't know if she knew which  
one was being --

THE COURT: Let's get into this this way.

There has been testimony at this trial that a  
man named Jerome Cohen was the district attorney of Orange  
County for a period of time.

Do you know Mr. Cohen?

THE WITNESS: If it's the same one I talked to.  
That's the only one I know. I called him at his home in  
Port Jervis, if that's the one I talked to.

THE COURT: Mr. Cohen had indicated he lived  
in Port Jervis.

THE WITNESS: That's where I called him, to  
his house.

Q Do you remember what you said to him?

A I did.

MR. PLATZMAN: I object to this, if it please

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Grant - direct

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the Court.

THE COURT: Overruled. Same ruling. It will be received subject to connection.

The question is, do you remember what you said to him?

THE WITNESS: Yes, I do.

Q What did you say to him, Mrs. Grant?

A I asked him if he could get any information why the Richard Monell trial -- when his trial was going to be held. I couldn't get any information.

He said he didn't know. When he went down, he would let me know. That's the last time I heard or seen Mr. Cohen. I have never seen Mr. Cohen, only the few words I mentioned on the phone.

Q That's the only --

A He said he would try to find out what was going on, why the trial didn't come up.

Q That's the only phone call to Mr. Cohen that you recall?

A Absolutely.

Q That was before Richard was sentenced; am I correct?

A That's right.

Q Is that your testimony?

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Grant - direct

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A That's right.

Q Do you know or have you heard of the name  
Angelo Ingrassia?

A I never heard of him until I read it the other  
day in the paper.

Q So you did not know that name in 1971?

A Never, never knew that name.

Q Did you ever place a call to your recollection  
to Angelo Ingrassia?

A Positively not.

Q Do you know the name Norman Shapiro?

A I know the name.

Q Did you ever place a telephone call to Norman  
Shapiro?

A I placed the same telephone call to him that  
I did to Jerome Cohen, tried to find out when Richard  
Monell's trial was going to be heard. I tell you the  
answer I got, you know as much as I do about it. That  
was it. He hung up.

Q So that also was before Richard was sentenced?

A That's right.

Q Did you call Mr. Shapiro after Richard was  
sentenced?

A I did not.

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2 Q You are positive about that?

3 A I never met him.

4 Q You never met Mr. Shapiro?

5 A I met him once in the hall when she was Richard's  
6 mistress. I'm going to say not his girlfriend, his  
7 mistress. She was going up to see him. They were halfway  
8 through the hall. I can explain this. She went up to  
9 Richard, went up to Mr. Shapiro on the way through. By  
10 the way, this is Richard's grandmother standing in the jail,  
11 this was in the big building in Goshen. That's the only  
12 time. I have never seen him again until he was pointed  
13 out in the hall. I never met Shapiro, never talked to him  
14 in my life, only that once.

15 Q Mrs. Grant, did you talk to anyone about your  
16 testimony here today before you came here today?

17 A No, I didn't.

18 Q Do you know what the testimony has --

19 THE COURT: To nobody?

20 THE WITNESS: I can't remember talking to anybody  
21 about it, in the family.

22 THE COURT: You talked to people in the  
23 family?

24 THE WITNESS: I did.

25 Q Who did you talk to?

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Grant - direct

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A Just my daughter and her husband. I didn't talk much to them. I spent all day yesterday -- may I say this, your Honor?

I spent all day yesterday in one doctor's office in Benedictine Hospital, three doctors. So I didn't get to talk to nobody.

THE COURT: You didn't talk to anybody yesterday because you were being treated by doctors in the hospital?

THE WITNESS: Yes, by three doctors.

THE COURT: You called me yesterday morning, to tell me that you had doctors' appointments yesterday.

THE WITNESS: Yes, I went to another doctor.

THE COURT: All right.

Q So you did talk to some extent to your husband and your daughter?

A We must have talked about coming down here. That's the one that got me down here today, late getting here. I was sick all the way up.

Q What about talking to your son-in-law, John Monell, did you talk to him?

A No, he doesn't say too much about it. Mr. Mcnell is sick, too. I don't bother him with it.

Q Did you talk to anyone else in the last two

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Grant - direct

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weeks about this case?

A I can't remember talking to anybody about it. I haven't even talked to Richard. I have only seen him fifteen minutes in all the while he's been up here.

Q Do you remember when Richard was in trouble in 1968 through 1971 on the assault case?

A I can't remember too much about it. If you refresh my memory, I will tell you if I did.

Q Do you remember ever putting up bail for him?

A Oh, yes.

Q What did you put up, if you remember?

A \$10,000.

Q Did you put up land or cash?

A I put up property bond.

Q You put up a deed; is that right?

A That's right.

Q Did you know in 1968 when the assault occurred that Richard had a grudge for Mr. DeWeaver, the man he assaulted?

A He had a what?

Q A grudge. He had a fight with him before that?

A Well, may I explain it to my own -- only what I heard? It was told to me. I couldn't say what the

1 gwjw

Grant - direct

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2 grudge was.

3 Q Do you know that there was some --

4 A I heard that they were drunk, brawl, whatever  
5 you would call it, fighting, drunk at one time. He beat  
6 Richard up until when he was down, couldn't get up to  
7 defend himself. Then when they met again, they got  
8 into an argument and this shooting was supposed to have  
9 occurred which I don't -- we are not sure about that.

10 Q You are not sure that the shooting occurred?

11 A Well, it was a shooting. I don't know who did  
12 the shooting and nobody else has so far.

13 Q You don't think Richard did it?

14 A No, I don't.

15 MR. PLATZMAN: I object to that, your Honor.  
16 I will sustain the objection to strike the last answer.

17 In any event, you heard about a brawl between  
18 Richard and Mr. DeWeaver?

19 THE WITNESS: That's right. I don't know him,  
20 I heard about it.

21 THE COURT: Then you heard about a shooting  
22 after that --

23 THE WITNESS: That's right.

24 THE COURT: -- where Mr. DeWeaver was shot;  
25 is that right?

2 THE WITNESS: That's right.

3 THE COURT: Then there came a time when Richard  
4 surrendered himself.

5 THE WITNESS: The same night that the shooting  
6 was -- occurred, his girlfriend at that time -- his  
7 mistress afterwards -- she took him from the shooting  
8 when he was drunk. He couldn't stand up. She took him  
9 up to his mother's in the trailer we are talking about  
10 which should never have been done, taken away from the  
11 scene.

12 In the morning his mother rushed him right back  
13 to give himself up to his lawyer. This girl, Miss York,  
14 should never have took him from the accident. She  
15 should ha-e left him there until the officers come and let  
16 them settle it. That's my opinion. I'm 77 years old.  
17 I don't want to tell a pack of lies here. I want to tell  
18 it as I know it.

19 Q Mrs. Grant, do you remember in 1970 that Richard  
20 was having trouble with Family Court?

21 A I don't r...ter what year it was, but I know  
22 he's had trouble with Family Court.

23 Q Do you remember one year near the Christmas  
24 holidays when he was in jail for failure to pay support?

25 A Yes. He was there for one day, I think, if we

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Grant - direct

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are talking about the same time.

Q Do you remember --

A One holiday -- I don't remember -- don't take my word for it. I'm not sure. He was having family trouble. He still is.

Q Do you remember -- perhaps this will help you -- Christmastime 1970 when he had just been in jail for failure to pay support.

A Yes, I remember that.

Q You remember that?

A Yes.

Q Do you remember about how long he was in jail?

A No, I don't. I can't remember.

Q Do you remember how he got out of jail?

A I don't know how he got out of jail. The only thing I know, he called me from Newburgh to come down and get him. I take that back. He walked in the house. He came up. We didn't know he was home. He walked over and says, "Grandma, I'm home for the holidays."

I says, "Fine."

He never confided to me how he got out.

Q You had nothing to do with helping him being released?

A I did not. How could I help him? I couldn't

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Grant - direct

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help myself at the time.

Q You didn't give him any money to pay support, did you?

A No, I have given his wife money on different occasions to help her out.

Q Did you at that time?

A No, I didn't at that time.

Q Do you remember going to or near the Family Court Jail when Richard was in jail in 1970?

A I have never been to see Richard in all the years that he's had trouble into a jailhouse.

Q You don't go into the jail; is that right?

A I have never been in.

Q You wait outside?

A Once I waited outside. Otherwise I never been there. I was there when he was -- this last time, when he was supposed to be tried. I told you, I met Mr. Shapiro. I was in -- I wasn't in the jailhouse, it was in the big building outside. I thought it was in a jailhouse. I waited for his girlfriend to go and see him.

Q Were you finished?

A Yes.

Q That was in 1971 on the assault case?

2 A Must have been in 1971. I'm not sure about  
3 that. That's the only time. All the years that he was  
4 in trouble, I never walked into that jail, never seen  
5 him behind bars. I hope I never have to.

6 Q Do you remember Richard being in jail within  
7 the last two months on a probation violation?

8 A Yes.

9 Q Didn't you go to Goshen?

10 A I went to Goshen and sat in the waiting room.  
11 I didn't go into the --

12 Q So you were outside the jail area?

13 A I was outside waiting in the car. I was too  
14 sick to go in. When I went in I got sick to my stomach.  
15 I went in to use the restroom.

16 Q You never went into any jail area to see Richard  
17 was in jail?

18 A No, I never seen him behind bars. You will see  
19 my name is on no record that I ever was.

20 Q Do you remember the day, Mrs. Grant, when  
21 Richard was sentenced to two and a half years in jail on  
22 the assault case?

23 A I don't remember the day. I know he was  
24 sentenced.

25 Q You remember when that happened?

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Grant - direct

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A I read it in the paper. No, I don't remember.  
I can't remember.

Q Did you receive any calls that day from anyone?

A No, I didn't.

Q Did Florence --

A His ladyfriend came back and told me. She was  
in court when he was sentenced.

Q What did she tell you?

A She said, "Your grandson got two and a half  
years."

Q What did you say?

A What could I say? There is nothing  
I could do about it.

THE COURT: You mean you said nothing at all  
when she said, "Your grandson got two and a half years?"  
You just stood silent or did you say something?

THE WITNESS: I don't remember saying anything  
to her. There was nothing I could do.

Q Were you surprised?

A No, I wasn't surprised. In one way I was, in  
one way I wasn't. He was shocked, he said. When he got  
outside he said he was shocked. I wasn't surprised when  
he came home.

Q You didn't --

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2 A I wasn't surprised of anything that he did.

3 Q You didn't think that he was going to get  
4 probation instead of a jail sentence?

5 A I did not.

6 Q You never told that to anybody?

7 A No. I tried to borrow money off of a man,  
8 \$500. I asked the Newburgh fellow to give me so I can  
9 get him a lawyer. He went down to New York to try to  
10 borrow money for me. I guess he ended up in jail himself.  
11 I never seen him since. So you couldn't give him a  
12 lawyer. He got himself the Legal Aid lawyer, Norman  
13 Shapiro.

14 Q That was in 1968?

15 A Yes -- no.

16 Q When he was first in court to plead guilty to  
17 the indictment, that is when the Legal Aid lawyer was  
18 assigned?

19 A I can't remember. My memory isn't as good.  
20 I'm lucky -- I'm lucky I'm sitting here in this chair  
21 today.

22 Q When I asked you whether you were surprised or  
23 whether you expected him to get probation, Mrs. Grant, you  
24 started to tell me about money.

25 Why did you think I was talking about money?

MR PLATZMAN: Just a moment now.

I object to that.

THE COURT: Yes, sustained as to form.

Q What does the payment of money have to do with whether or not you were surprised at Richard going to jail?

MR. PLATZMAN: I object to that.

THE COURT: Sustained.

Q Did you pay any money to anyone to try and keep Richard out of jail on the assault charge?

A I did not, positively did not.

Q Did you ever pay any money to Mr. Doulin to try to keep Richard out of jail?

A No, I never pay William Doulin one cent. I have asked him for plenty of favors. He buried my father and I still owe the man a few hundred for burying my father. I was not about to go down and pay him. I don't know why I would pay William Doulin off. He isn't a judge.

Q What favors have you asked him for?

A I asked him plenty. I couldn't name them. I went down and I asked him -- I asked him what he thought about the adoption. I went to Mr. Doulin like I would my brother.

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2 Q You asked Mr. Doulin something concerning the  
3 adoption?

4 A Yes.

5 Q Mr. Doulin isn't a lawyer, is he?

6 A No, he isn't a lawyer. He can give as good  
7 advice as some of them. I only asked him for advice,  
8 I didn't ask him for legal advice.

9 Q Did you ever ask him for any other favors?

10 A Yes.

11 Q What other favors?

12 A I asked him to do me a favor. When I went down  
13 to see him, my son-in-law was having trouble with the  
14 union. I asked him if he could get an appointment with  
15 a fellow named William Doulin. He was on the same committee  
16 with Mr. Doulin. I asked him to see -- to see Mr. Ted  
17 Daly.

18 MR. PLITZMAN: May it please the Court --

19 MR. SCHWARTZ: Let her finish.

20 THE COURT: She has corrected herself.

21 A See if he could get an appointment maybe. They  
22 were on the same committee. I think it was something about  
23 the airport. Mr. Daly refused to pay off my son-in-law  
24 his disability. I asked Mr. Doulin if he could help out  
25 and get him an appointment. I think Mr. Daly owed me a

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Grant - direct

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favor. I thought maybe he would do that.

Q Did you ask Mr. Doulin for any other favors?

A I might have. I don't remember. I did not -- not concerning Richard I didn't.

Q You are sure of that?

A I'm positive.

Q Never asked him for a favor concerning Richard?

A Never. He doesn't know Richard.

Q When Richard was sentenced to a jail term on the assault indictment, did you make any phone calls to anyone after that?

A I don't remember making any phone calls. The only time I -- while he was waiting for sentence I called to ask when his trial was. I called Mr. Weissman and asked him -- this was after he was sentenced -- if he could tell me the date of Richard's sentence. I didn't even know the date when he was released.

MR. PLATZMAN: I think she already testified to it. I think here again we are getting this interchange of names of Weissman and Cohen.

THE COURT: It is up to counsel to correct it if there is a problem.

MR. PLATZMAN: I think she did testify it was Mr. Cohen.

2 THE COURT: She did indicate she called Mr.  
3 Cohen. Now she has indicated she had some conversation  
4 with Mr. Weissman.

5 Do you recall that conversation?

6 THE WITNESS: Yes. I called him up and asked  
7 him if he would look at the record and tell me the date  
8 that Richard was released. I didn't know when he was  
9 released from the jail. I have it on the paper. He  
10 asked me if I would hold the wire for a few minutes until  
11 he went and looked. I don't remember what date.

12 He said he was freed. He says, I will look  
13 from my records, and I thanked him very much and that  
14 was all.

15 THE COURT: You called Mr. Weissman to find out  
16 when Richard was freed?

17 THE WITNESS: I forget the year, March.

18 THE COURT: Is that in '71?

19 THE WITNESS: '71. I never met the man. I  
20 never saw the man.

21 Q Mrs. Grant, before Richard was sentenced --  
22 by the way, do you recall the name of the judge who  
23 sentenced him?

24 A No, I do not.

25 Q There has been testimony here that it was Judge

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Grant - direct

2 Isseks.

3 Do you know Judge Isseks?

4 A No, I don't.

5 Q To your knowledge, have you ever met him?

6 A I have seen his name in the paper. I don't ever  
7 remember meeting him.

8 Q To your knowledge, have you ever spoken to him?

9 A No, I don't think I have. I'm not sure.

10 Q He's certainly not a friend of yours; is  
11 that correct?

12 A No, he is not.

13 Q Before Richard was sentenced on the assault  
14 case, did you contact the Probation Department in Orange  
15 County?

16 A No, I went out there to the probation,  
17 nothing to do with this case. It was about Children's  
18 Court.

19 Q Family Court problems?

20 A Family Court.

21 Q Did you ever ask anyone to go to the Probation  
22 Office in connection with Richard's case?

23 A No, I went myself.

24 Q You went yourself?

25 A Yes.

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Grant - direct

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2 Q Who went with you, if anyone?

3 A My husband.

4 Q Did he drive you?

5 A Yes, he did.

6 Q Do you drive?

7 A Not now I don't. I drove -- I learned my  
8 husband how to drive. I used to be a teacher for driving.

9 Q Did you drive in 1971?

10 A No. I haven't had my license in forty years.

11 Q I may have asked this.

12 Did you tell anyone to go to the Orange County  
13 Probation Department on behalf of Richard in connection  
14 with his assault case?

15 A I did not.

16 Q Did you ask anyone to go to the district  
17 attorney's office on behalf of Richard in the assault  
18 case?

19 A Never. I did not.

20 Q To your knowledge, did anyone in your family,  
21 and by that I include your husband, your daughter and your  
22 son-in-law -- did they put in a good word for Richard with  
23 the Probation Department?

24 A No, they did not.

25 Q Did they put in a good word in the district

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attorney's office, to your knowledge?

A I know they didn't.

Q Mrs. Grant, I would like to show you a document which is an exhibit here. I think you will recognize it. There has been testimony that this is your bankbook.

A That's right.

Q You recognize it?

A I gave it to you on my own account when you were up to --

Q Kingston.

A Kingston.

Q Would you look at that bankbook. You will see that on March 30, 1971 --

A Yes.

Q -- there was a withdrawal of \$1480 in cash.

A Mr. Schwartz, I would like to have this understood for this whole court. You have those records dollar for dollar, penny for penny. You have had them in your files for a long while. You have them and we have some. You know and I want the Court to know where every penny went. You can even look to see where it went. I don't think we are going --

THE WITNESS: Judge, may I say this?

THE COURT: No.

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THE WITNESS: What's on here?

THE COURT: No.

Next question, Mr. Schwartz.

Q Where do you say the money went, Mrs. Grant?

A I have told you where it went.

Q Where?

THE COURT: Where?

THE WITNESS: I --

THE COURT: You said you can account for every penny of it. Go right ahead.

THE WITNESS: Can I call my husband in?

He's got the --

THE COURT: Do your best.

THE WITNESS: He has it in writing. Could I bring him in?

THE COURT: You do your best. You are on the stand now.

THE WITNESS: I can't remember a thing.

THE COURT: You can't remember a thing?

THE WITNESS: No.

THE COURT: I thought you said a few moments ago you could account for every penny.

THE WITNESS: I did. We give it to the courts out here. My husband -- my son-in-law took all accounts

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of my bills and \$1400 -- what is it? \$1480? I gave  
to my son-in-law to buy a house with, to hold it in case  
he got the little piece that he wanted.

THE COURT: You gave him cash to buy a house?

THE WITNESS: I gave him cash.

THE COURT: You took the money out of the  
savings book?

THE WITNESS: That's right.

THE COURT: In a check form, did you?

THE WITNESS: No, I think I draw it out in  
cash.

THE COURT: You gave him cash to buy a house?

THE WITNESS: That's right, toward a house.

Q Did you give him the cash immediately after  
you draw it out of the bank?

A I don't remember that either. I'm sure I give  
it to him. Whether he kept it in his place or I kept it  
in mine. In the meantime, I took some of it to buy some  
antiques. I had \$1800 -- whatever is on there \$1400-  
some odd. I give it to him for the house. All those  
records you have.

Q You don't remember whether you kept it in your  
house or whether he kept it in his house?

A I might have had it in my house for a couple of

1 gwjw

Grant - direct

638

2 days and I give it to him.

3 Q Do you recall what property he bought with this  
4 money you gave him?

5 A What property? You mean where it is?

6 Q Yes.

7 A On 213th in Stoneridge.

8 Q Do you know why he needed cash?

9 A Why he had cash?

10 Q Why he needed cash.

11 MR. PLATZMAN: I object to the form of that  
12 question.

13 A He had to pay for the property.

14 MR. PLATZMAN: Just a moment.

15 THE COURT: Overruled.

16 A You want to know why he needed it? He needed  
17 it with what he had to buy the piece of property, if he  
18 seen a piece for the money that he had.

19 Q How long did you or your son-in-law hold on  
20 to the cash?

21 A That I don't know.

22 Q Isn't it --

23 A Maybe four weeks, five weeks, six weeks before  
24 we got the place he was looking for. I'm not sure. I'm  
25 not sure if it was six weeks, eight weeks or what. We

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Grant - direct

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wanted the cash. We found the place. When we found the place, read it in the paper, we went right up and he collected his money and I give him the balance that I had outside of the antiques.

Q In other words, you wanted this cash available so you could buy the property?

A That's right.

Q Immediately?

A That's right. We had to have it immediately.

Q Did you need that so that your son-in-law could write a check for the property?

A I don't know even if he made a check for the property.

THE WITNESS: May I say something, Judge? This lady was old lady, 82 years old. She lived alone. She wanted cash money. I don't know whether he give her a check. If he has, he has -- in fact, I think in the record he's got the checks. He will show it to you when he comes in and you ask him. I think he has the check or you have a copy of it.

Q Mrs. Grant, at the time that you drew the cash out of the bank, didn't your son-in-law have an account in the same bank?

A Yes.

1 gwjw

Grant - direct

640

2 Q And you didn't transfer your money from your  
3 account to his?

4 A That's right.

5 Q Instead you drew out cash?

6 A Both times. You have it here for the tractor  
7 also.

8 Q You are referring to a tractor. If you will  
9 give me a moment, I will get to that. I'm trying to find  
10 out what happened in 1971 with the cash you took out of  
11 your account.

12 A I gave it to Mr. Monell.

13 Q It was not transferred into his account?

14 A I don't remember.

15 Q You do recall giving him the cash; is that  
16 right?

17 A I gave him the cash.

18 Q Was it usual for you to keep that amount of  
19 cash around your home?

20 MR. PLATZMAN: I object to that.

21 A Yes.

22 Q It was?

23 THE COURT: She answered the question. I  
24 will let it stand.

25 MR. PLATZMAN: All right.

2 Q On what other occasions had you kept that  
3 amount of cash around your home?

4 MR. PLATZMAN: I object to that question, if  
5 it please the Court.

6 THE COURT: Yes. I will sustain that objection.

7 Q Mrs. Grant, do you remember appearing before  
8 a grand jury in Kingston, New York?

9 A Yes, I do.

10 Q If I told you that it occurred on May 21, 1975,  
11 would you accept that was the date you were in the grand  
12 jury?

13 A I won't say I accept it. I don't remember the  
14 date. I know I was down there. If you say --

15 THE COURT: Was that about May of this year,  
16 just before the summer?

17 THE WITNESS: Gee, your Honor, I can't remember.  
18 I know I was down before them. I don't know what date.  
19 I think it was in May. I think I have it down in a little  
20 notebook. I don't think I have it with me. It was May  
21 27th.

22 Q May the 21st, I think.

23 A The 21st?

24 Q You do remember testifying?

25 A Yes, I do.

1 gwjw

Grant - direct

642

2 Q Do you remember testifying about whether or  
3 not you had kept the money in your home, the \$1480?

4 A I probably did. I probably kept -- I did  
5 keep it there for a while. I took some of it to pay  
6 a deposit on the house. Then I gave it to Mr. Monell  
7 to keep, for buy the house. The house belongs to them,  
8 it doesn't belong to me.

9 Q I'm going to read from page 18, Mrs. Grant,  
10 starting at line 13.

11 I want to read some questions and answers and  
12 see if you recall them, Mrs. Grant.

13 "Q You didn't keep the money in your house?

14 "A No, I did not. If I did, I would lose it."

15 Just that one question and answer.

16 Do you remember being asked that question and  
17 giving that answer, Mrs. Grant?

18 A I don't remember. If it's down there, I must  
19 have said it.

20 Q Are you changing that now?

21 A No, I don't want to change it. I'm not sure.

22 Q Think it over.

23 A I don't remember.

24 Q You don't remember now?

25 A No. I remember having the money. I don't know --

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Grant - direct

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I don't remember mentioning it even down there.

Q You don't remember saying that if you kept it you would lose it, so you didn't keep it in your home?

A I don't know anything about losing it.

Q You mentioned a tractor before.

A That's right.

Q Does that relate to another withdrawal from your bank account?

A That's for the withdrawal, that's right. That's in 1969, I believe.

Q That's correct.

A Yes.

Q Do you remember how much?

A \$2,000 I drew out.

Q That's right, too.

A It was out of my savings account, not the checking account.

Q Right. What did the money go for?

A Tractor.

Q Where did you buy it, if you recall?

A Haviland's in -- in Milton.

Q Do you recall what you paid for it?

A \$1800, \$200 for parts. I think that's separate.

I don't know.

1 gwjw

Grant - direct

644

2 Q You remember that?

3 A I remember. The checks are there to prove  
4 it. I think you have them.

5 MR. SCHWARTZ: May I have this document  
6 marked Exhibit 31 for identification.

7 (Government's Exhibit 31 marked for  
8 identification)

9 Q Mrs. Grant, let me show you these two pieces  
10 of paper and take a look at the top one.

11 Do you recognize that? It's a xerox. It  
12 may be difficult to read.

13 A Can I get my glasses?

14 Q You have reading glasses?

15 A I hope I have them here. I have to have two  
16 pair of glasses. That's it.

17 Q That's the Haviland Company?

18 A Yes.

19 Q That's a tractor you bought in 1969, is that  
20 right?

21 A That's right. I don't know whether it was in  
22 1969. I'm not sure.

23 Q Let me show you --

24 A Whatever is marked on there is when we bought  
25 it.

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gwjw

Grant - direct

645

Q You just told us when you withdrew the money  
for the tractor.

A It's right here in your book. That was 1969.

Q So that's when you bought the tractor; is that  
right?

A I have to -- I'm very confused. We come up there  
in 1969. How long we were there -- you have to take it from --  
you have the checks there. Whatever the check says is  
when I bought the tractor. I can't remember back. I can't  
remember -- some of these questions you have so far back,  
I can't remember. In fact, I can't remember yesterday.

Q The \$1480 that was withdrawn in cash, that was  
not for the tractor, was it?

A No, it was not.

Q You are sure about that?

A I'm positive.

Q Do you remember being interviewed by an FBI  
agent and a representative of the New York State Police  
at your trailer in 1974?

A I do.

Q Do you remember what you told them?

A I remember what I didn't tell them, if I could  
tell it.

Q Why don't you tell us what you told them.

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Grant - direct

646

A Well, I didn't tell them --

MR. PLATZMAN: I object to the form of that question.

A I couldn't answer the questions they wanted.

THE COURT: Rephrase your question, Mr. Schwartz.

Q Mrs. Grant, you recall the conversation I'm referring to?

A Can I explain it in my own way?

THE COURT: Just try to answer his questions. He has asked you about a visit that you had from an FBI agent and a State Police person.

THE WITNESS: I can't remember the conversation.

THE COURT: You can't remember the conversation?

THE WITNESS: I really can't remember the conversation.

Q You do recall a State Policeman interviewing you?

THE COURT: She recalls the visit, but she does not recall the conversation.

A I recall the visit in my daughter's house. I went over and talked to them.

MR. SCHWARTZ: I'm going to ask Mr. Reutter to stand up for a moment.

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gwjw

Grant - direct

647

Q Do you remember that this was one of the gentlemen who came to see you?

A Yes, he is.

Q You recall that?

A Yes.

Q Do you remember the name of the other person?

A That was with him?

Q Yes.

A No, I do not.

Q Does the name Whelan, Mr. Whelan help you remember?

A I'm sorry, I can't remember the other guy's name. He showed his credentials, but I still don't know.

Q Do you remember that they asked you certain questions?

A I don't remember what they asked me. If you will refresh my memory, I will tell you if it was true.

Q I will try.

Do you remember what answers you gave them?

A I can't remember if I don't know the question.

MR. PLATZMAN: Just a moment. I object to talking about answers unless we first get the question.

THE COURT: I think he is laying a foundation for refreshing her recollection. She said she did not

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Grant - direct

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recall the questions and then she has now said she did  
not recall the answers.

I presume he intended after laying the foundation  
to refresh the witness' recollection, if possible.

I will let it stand.

take

1 G.W.M.

Q Do you remember either the questions or the answers, Mrs. Grant?

A The only thing they wanted to know if I knew anything about Richard being released or something like that; that's what they came down for.

First, they came to the gate and I wasn't going out, I was sick. I told them I will go over there and I will talk with them.

Q Were you alone?

A No, my husband was there. My daughter wasn't there. She came in while they were there.

Q Do you remember anything about the conversation?

A No. The only thing he asked me if I knew anything about why he was released.

Q Did they ask you about Mr. Doulin?

A No, I don't think they did.

When Mr. Reutter, whatever his name is, came in, my husband says if I knew Mr. Doulin or I knew a friend of Governor Rockefeller, which I didn't tell Mr. Reutter that.

Q You don't remember telling Mr. Reutter that in connection with getting probation for Richard you contacted a friend of Governor Rockefeller?

MR. PLATZMAN: Objection.

A No. It is a lie.

2 GWMch

Grant-direct

MR. PLATZMAN: I would still like my objection on the record.

THE COURT: You have objected but the jury heard it.

A I want it understood.

MR. PLATZMAN: Unfortunately, I can't --

THE COURT: Do you want it stricken?

MR. PLATZMAN: No. It has been answered.

Q Did you ever discuss Richard's criminal assault case with your son-in-law, John Monell?

A Well, I imagine we have talked about it, but I can't really recall any assault cases. We were always talking about him doing something.

Like today. I don't know what is testimony is. I didn't know anything about it.

Richard was up there for a few days. I didn't know what he was up there for, what he said to him. He came in my house, he uses my phone first, and that's all I have seen of Richard for between two and three years.

Q Did you ever tell your son-in-law, John Monell, that Mr. Doulin said he was going to help Richard on the assault case?

A No.

MR. PLATZMAN: Same objection.

1 3 Gwmch

Grant-direct/cross

2

THE COURT: She has answered again in the negative.

3

Do you want to let it stand?

4

MR. PLATZMAN: Yes.

5

MR. SCHWARTZ: I have no further questions,

6

your Honor.

7

CROSS-EXAMINATION

8

BY MR. PLATZMAN:

9

Q Mrs. Grant, I must apologize for your being

10

questioned. I have a few questions I would like to ask you.

11

A I would be glad to answer them. It's all right.

12

Q When this incident about DeWeaver, with the

13

shooting, took place, did your grandson tell you that he

14

didn't shoot Mr. DeWeaver?

15

A He didn't tell me anything. He just said that

16

there was a shooting and he was so drunk that he couldn't

17

stand on his feet, so he didn't know anything.

18

This girl that was living with him at the time,

19

she was his mistress, she put him in a car and brought him

20

up to the trailer where we live now. So I couldn't get

21

much out of what it was.

22

But I know he did want to change his testimony to

23

innocent, but he wasn't allowed to after he got in court.

24

Q One other question, Mrs. Grant, a series of

25

questions.

Grant-cross/redirect

1 4 GWmch

2 Did Mr. Doulin take care of the funerals of  
3 various relatives?

4 A He has buried all my family. I am in that funeral  
5 parlor more than I am home.

6 He took two of them in the last few months. He  
7 took care of them.

8 Q Is it or is it not a fact, or am I mistaken, that  
9 he buried your father?

10 A He buried my father.

11 Q And he never took money for it?

12 A I still owe him.

13 Q You never paid him for it?

14 A No. Every time I want to give him a couple of  
15 dollars, he says, "Wait." When he buries me, he will get  
16 my insurance money.

17 MR. PLATZMAN: No further questions.

18 REDIRECT EXAMINATION

19 BY MR. SCHWARTZ:

20 Q When did you start calling Flo Hall Richard's  
21 mistress rather than his girl friend?

22 A There is no other way. She broke up his home.  
23 That's why Miss York has testified. I would like  
24 to have the Court know --

25 MR. SCHWARTZ: I would like to have it stricken as

1  
2 not responsive.

3 THE COURT: The latter part is not responsive.

4 Any further questions?

5 MR. PLATZMAN: No, your Honor.

6 MR. SCHWARTZ: No further questions, your Honor.

7 (Witness excused)

8 MR. JOSSEN: The Government calls John Monell.

9 THE COURT: Wait. I think it would be appropriate  
10 for us to take a break. The jury has been very patient.  
11 I do appreciate it. I had hoped to finish with the last  
12 witness and we have.

13 We will take our midmorning break, about ten  
14 minutes. Please do not discuss the case among yourselves.  
15 Keep an open mind on all facets of the case until it has  
16 been concluded. I expect we will be breaking for lunch  
17 sometime in the vicinity of 1:00 p.m.

18 Thank you, gentlemen.

19 (Recess)

20 (In open court; jury present)

21 J O H N H. M O N E L L, called

22 as a witness by the Government, being first duly  
23 sworn, testified as follows:

24 THE COURT: You may examine.  
25

1 6 GwmcH

J. Monell-direct

2 DIRECT EXAMINATION

3 BY MR. JOSSEN:

4 Q Mr. Monell, I will ask you to keep your voice up  
5 so that all in the courtroom can hear you.

6 Where do you live, sir?

7 A High Falls, Mossy Brook Road.

8 Q Do you live in an apartment or a house?

9 A Mobile home.

10 Q How long have you lived in High Falls?

11 A About nine years, I think.

12 Q Are you related to Richard Monell?

13 A I'm his father.

14 Q Do you know a William and Jean Grant?

15 A They are my mother-in-law and father-in-law.

16 Q Will you tell us where the Grants live?

17 A They live on our property in another mobile home.

18 Q What is the approximate distance between your  
19 home and the Grant's home?

20 A About 50 feet.

21 Q Are there any other homes on your property?

22 A No.

23 Q Was there a time when there was another home on  
24 your property?

25 A Yes.

1 7 Gwmch

J. Monell-direct

2 Q Whose home was that?

3 A Richard's.

4 Q Was that also a trailer?

5 A Right.

6 Q When was that trailer there?

7 A Up until about three years ago, I think.

8 Q Starting when?

9 A Starting when?

10 Q Yes.

11 A Sometime in '69 we brought it up there.

12 Q Mr. Monell, do you know William Doulin? Can  
13 you hear me, sir?

14 A Do I know him?

15 Q Yes.

16 A Of course I know him.

17 Q How long have you known Mr. Doulin?

18 A How long?

19 Q Yes.

20 A Since I was about seven years old.

21 Q How do you know Mr. Doulin?

22 A How do I know him?

23 Q Yes.

24 A He lived in the same neighborhood as my grand-  
25 father. I played in the Lions' parking lot, and he was in

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8 GWmch

J. Monell-direct

656

the fire department.

Q Is he a friend of your family?

A Absolutely.

Q Is Mr. Doulin seated in the courtroom today?

A Sure is.

Q Would you point him out to us, please?

A Right over there.

THE COURT: It is conceded, I am sure, that the witness knows Mr. Doulin.

MR. PLATZMAN: Conceded.

Q Mr. Monell, let me direct your attention to the period of time between 1968 and 1971.

Were you aware at that time of a criminal assault case involving your son, Richard Monell?

A Yes.

Q Did there come a time when your son pleaded guilty to charges against him in connection with that assault case?

A So I hear.

Q Do you know as a fact he pleaded guilty to charges?

A I wasn't there. I don't know anything about it.

Q Do you recall when he pleaded guilty?

A No.

1 9 GWMch

J. Monell-direct

2 Q Do you recall approximately when that happened?

3 A Sometime in '71, I think it was.

4 Q Do you recall when the assault itself took place?

5 A To the best of my understanding, it was back around  
6 sometime in '69.

7 Q 1969?

8 A I think it was.

9 THE COURT: Might it have been 1968?

10 THE WITNESS: It could have been.

11 Q How did you first learn about the assault case?

12 A When Richard and Florence York came up to our  
13 home and told us about it.

14 Q Do you recall how long after the actual incident  
15 that happened?

16 A I think it was the same night, if I remember  
17 right.

18 Q Who is Florence York?

19 A Who is she?

20 Q Yes.

21 A Richard's girl friend.

22 Q Was she his girl friend at the time of the  
23 assault?

24 A So they say. I don't know.

25 Q At the time of the assault, was Richard living on

1 10 GWhch

J. Monell-direct

2 your property?

3 A No.

4 Q Was he living in your trailer at any time around  
5 the time of the assault?

6 A He lived in our trailer a couple of days after he  
7 came up and then we got him one.

8 Q Did Florence York ever stay in your trailer?

9 A In our trailer?

10 Q Yes.

11 A Yes, she stayed there for a few days, too.

12 Q Do you know whether there came a time when your  
13 son was sentenced in connection with the assault case?

14 A Yes.

15 Q Do you recall when that happened?

16 A I said it was sometime in '71.

17 Q Let me make sure you are clear about this, sir.

18 Do you recall whether there came a time when your  
19 son pleaded guilty to the charges against him?

20 A I don't know what he pleaded. I wasn't there.  
21 I don't know anything about it, except that he showed up  
22 at the place and said it was all over with.

23 Q When was that?

24 A He was free.

25 Q When was that?

1 11 GwMch

J. Monell-direct

2 A Sometime around '71, somewhere around there.

3 Q Was that the only conversation that you had in  
4 connection with your son's assault charge from the time that  
5 you first learned about the assault charges until you saw  
6 him after he was free?

7 A He came up to the place and told us what happened.  
8 He gave us his version of it. That's all there was to it.

9 Q When did that happen?

10 A According to the judge, it must be '68. I thought  
11 it was '69.

12 Q Following that conversation when Richard told  
13 you his version of what happened --

14 THE COURT: Was that the night it happened that  
15 he came and told you about it, or was it later?

16 THE WITNESS: To the best of my recollection,  
17 I think it was the same night.

18 MR. PLATZMAN: I didn't hear that.

19 THE COURT: "To the best of my recollection, I  
20 think it was the same night."

21 THE WITNESS: I think it was.

22 MR. PLATZMAN: Thank you.

23 Q Following the conversation which you had with  
24 Richard when he told you his version of what had happened  
25 in the assault incident, when for the next time did you

1 12 GWMch

J. Monell-direct

2 discuss Richard's case with anyone?

3 A I never discussed it with anyone.

4 Q Until the time that Richard was free; is that  
5 correct?

6 A That's right.

7 Q But you discussed it with Richard Monell after  
8 he got out of jail; is that correct?

9 A After he got out of jail, no.

10 Q Did you discuss it with Richard again following  
11 the night of the incident?

12 A The only thing I had to say to Richard after  
13 that is when his trial came up, I asked him if he needed  
14 money.

V 15 He said, "No."

16 I said, "Do you need a lawyer?"

17 He said, "No."

18 I said, "Great. I have my own problems. I don't  
19 need yours."

20 Q When did you have that discussion, sir?

21 A Somewhere along the time his trial was coming up.

22 Q Did your son actually go to trial?

23 A I don't know that.

24 Q Do you recall how many times your son was sentenced?

25 A All I know is what I read in the papers.

1  
2 Q You had no personal knowledge at all of the  
3 number of times your son was sentenced?

4 A None whatsoever.

5 Q Only what you read in the papers; is that right?

6 A Right.

7 Q Did you read that in the papers at around the  
8 time he was sentenced?

9 A Yes.

10 Q Do you recall approximately when he was sentenced?

11 A I still think it was sometime in '71. I don't  
12 remember exactly.

13 Q Do you recall what the sentence was?

14 A I understood he got a 2-1/2 year sentence, and  
15 they sent him down to Sing Sing and they wouldn't accept  
16 him and they sent him back. I don't know what it was all  
17 about.

18 Q You don't know whether there was one or two  
19 sentences; is that correct?

20 A According to the papers it was two.

21 Q But only according to the papers; is that correct?

22 A As far as I know.

23 Q Prior to the time that your son was sentenced  
24 on the assault charges, do you recall any conversation  
25 with anyone else in your family, other than your son, about

1 14 GWMch

J. Monell-direct

2 Richard's problems with the assault case?

3 A No.

4 Q No conversations at all?

5 A No.

6 Q Were there any such conversations?

7 A No.

8 Q Did you have any conversations with Mrs. Grant  
9 about that time concerning your son's assault case?

10 A No.

11 Q None at all?

12 A No.

13 Q Now, just prior to the time that your son was  
14 sentenced --

15 MR. JOSSEN: Withdrawn.

16 Q Within the three-month period of time prior to the  
17 occasion when your son was sentenced, do you recall any  
18 conversations at all with Mrs. Grant about Richard's  
19 assault case?

20 A I never talked to Mrs. Grant about Richard's  
21 assault case.

22 Q Do you recall any conversation with Mrs. Grant in  
23 which the name Abraham Weissman was mentioned?

24 A I never talked to her about it at all.

25 As a matter of fact, I refused to talk to anybody

1 15 GWinch J. Monell-direct

2 about it. I didn't want to know about it.

3 Q Mr. Monell, do you recall testifying before a  
4 federal grand jury in connection with this case?

5 A Yes.

6 Q Do you recall when that testimony was given by  
7 you?

8 A A few months ago. I don't remember exactly when.

9 Q Will you accept the date May 7, 1975?

10 A If you say so, that's about what it was.

11 Q I am going to read to you some questions and  
12 answers and ask you whether you recall those questions  
13 being asked of you and your giving those answers at that  
14 time.

15 Page 14, Line 17:

16 "Q To your knowledge, has Mrs. Grant had any conver-  
17 sations with Mr. Weissman concerning Richard Monell's  
18 criminal case in the district attorney's office?

19 "A I think she called him up on the phone a couple  
20 of times to inquire about something.

21 "Q So we are clear --

22 "A At least she told me she did.

23 "Q So we are clear, when I say the criminal case,  
24 I'm talking about the one that led to his first sentence,  
25 to a jail term and then a resentence to probation in 1971.

1 16 Gwmch

J. Monell-direct

2 "A Yes.

3 "Q Do you understand which one I'm referring to?

4 "A Yes.

5 "Q You say that she told you she did contact Mr.  
6 Weissman on one or two occasions?

7 "A Yes, something she wanted to ask him.

8 "Q Was this over the telephone or in person?

9 "A To the best of my knowledge, it was on the  
10 telephone.

11 "Q Is that what she told you?

12 "A As far as I know.

13 "Q When you say as far as you know, do you mean as  
14 far as you remember?

15 "A As far as I remember, that's what it was.

16 "Q Did she tell you what her conversations were  
17 about with Mr. Weissman?

18 "A She probably did at the time, but I forgot what  
19 it was all about. She wanted to know what was going on.  
20 Whatever he told her, I don't remember what he told her.

21 "Q Do you remember whether it was before or after  
22 Richard Monell was first sentenced?

23 "A I'm a little bit confused on that. To the  
24 best of my knowledge, from what I understand of the whole  
25 situation, this all took place within a few days. He was

J. Monell-direct

17 GWmch

1 sentenced, he was sent down to Ossining, Ossining refused  
2 to accept him. They sent him back. To the best of my  
3 knowledge, it all happened within a matter of a few days."

4 MR. PLATZMAN: I still have my objection. Same  
5 ruling, I assume.  
6

7 THE COURT: I don't see that the objection lies  
8 at this point, but if you wish to make an objection -- he  
9 has now been reading from Q and A in the grand jury.

10 MR. JOSSEN: I had not completed, your Honor,  
11 this series.

12 MR. PLATZMAN: I thought you had finished. I'm  
13 sorry.

14 THE COURT: We will let him finish.

15 Where are you picking up now?

16 MR. JOSSEN: Page 16, Line 5, your Honor.

17 Q "Q There is testimony before this grand jury  
18 based upon records in the D.A.'s office that your son was  
19 first sentenced on March 5, 1971, and then he was resentenced  
20 on March 26, 1971, and the period between March 5 and  
21 March 26 he was in the Orange County jail.

22 "A That is right.

23 "Q Does that refresh your recollection?

24 "A Yes.

25 "Q It is about three weeks. Was it during that period

1 18 GwMch J. Monell-direct

2 Mrs. Grant called Mr. Weissman to find out what was going  
3 on?

4 "A I think it was before that she was telling me  
5 about it.

6 "Q Before?

7 "A Yes.

8 "Q Before he was first sentenced?

9 "A Yes.

10 "Q Do you recall how long before?

11 "A No."

12 Now, Mr. Monell, do you recall being asked those  
13 questions and giving those answers when you appeared before  
14 the grand jury?

15 A I remember.

16 MR. PLATZMAN: I renew my objection.

17 THE COURT: The same ruling.

18 MR. PLATZMAN: Thank you.

19 THE COURT: It will be received subject to con-  
20 nection.

21 Q Now, Mr. Monell, prior to the time --

22 MR. PLATZMAN: I am sorry. Was there an answer to  
23 that?

24 MR. JOSSEN: Yes, there was.

25 MR. PLATZMAN: I missed it.

1 19 GwMch

J. Monell-direct

2 THE COURT: Mr. Reporter, read the witness'  
3 response after the questions and answers were read to him,  
4 please.

5 (Record read)

6 Q Mr. Monell, do you recall any conversations at  
7 all between yourself and anyone in your family during the  
8 period of time that Richard was in the Orange County jail  
9 between the two sentences in 1971?

10 A Let's you and I get very straight on what we are  
11 talking about when you say "conversation." Conversations  
12 in that case were one-sided. Someone would tell me something  
13 and I would say, "I don't want to know anything about it.  
14 Don't bother me."

15 I heard about it. There was no conversation.  
16 To me a conversation is if you and I are talking back and  
17 forth. That's a conversation.

18 Q Do you recall being in the presence of anyone  
19 else in your family during the period of time while Richard  
20 was in Orange County jail when someone talked to you about  
21 this case?

22 A It could have been mentioned.

23 Q It could have been mentioned?

24 A Yes.

25 Q Do you recall whether it was mentioned?

2 A Nothing specific.

3 Q Do you recall Mrs. Grant telling you anything  
4 about the case?

5 A I just told you, Mrs. Grant would tell me  
6 something, but I told her I didn't want to know about it,  
7 "Don't bother me."

8 Q Do you recall any time when Mrs. Grant said to you  
9 that she was seeking the help of someone else in connection  
10 with Richard Monell's criminal assault case?

11 A Whether she was seeking help?

12 Q That she was seeking help.

13 Do you recall a conversation to that effect at  
14 any time?

15 A I heard her say she was talking to somebody  
16 about it. That's all.

17 Q Do you recall who she said she was talking to  
18 about it?

19 A Yes. She was talking to Mr. Doulin.

20 Q Do you recall anything else that she told you  
21 about talking to Mr. Doulin?

22 A The only thing she told me, there was something  
23 going on, she thought she could ask Mr. Doulin about the  
24 situation, and that's what it was.

25 Q Do you recall when that took place, when Mrs.

1 21 GwMch

J. Monell-direct

2 Grant told you this?

3 A Not specifically. It was during this period that  
4 she probably said it.

5 Q During which period?

6 A When this was all going on. Somewhere between  
7 '69 or '68 and '71.

8 Q Do you recall during the period of time when  
9 Richard's criminal charges were pending in the Orange  
10 County court system Mrs. Grant telling you at any time that  
11 she had asked Mr. Doulin to intercede on behalf of your  
12 son?

13 A No.

14 Q Her grandson?

15 A No, not intercede. I never heard the word.

16 Q What do you recall?

17 A That she was talking to the man. What she talked  
18 about, I don't know.

19 (Continued on next page)

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J. Monell - direct

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Q How many times do you recall such a conversation taking place?

A How many times?

Q Yes.

A I couldn't say specifically. I know she went down to see him once in jail.

Q Do you recall when that was?

A No dates. I don't remember that.

MR. PLATZMAN: Of course, I don't like to be repetitive, but just so we don't forget that my objection still continues to this whole line of testimony that your Honor has said is a continuing objection.

THE COURT: Questions relative to conversations have been objected to. That is a continuing objection. Not the line of questioning, but questions relating to conversations.

MR. PLATZMAN: Yes, your Honor.

THE COURT: Very well.

Q And, Mr. Monell, in this conversation or conversations which you had with Mrs. Grant, do you recall whether she told you what Mr. Doulin said?

A I just got done telling you I didn't have conversations with her.

Q Fine, sir. These occasions when you were

present and Mrs. Grant was talking to you, do you recall whether she told you what Mr. Doulin said?

A She may have.

Q Well, do you recall?

A No.

Q Mr. Monell, I show you what has previously been marked as Government Exhibit 3541 for identification. I would like you to read the last three lines on page 17 and the first four lines on page 18. Read them to yourself, sir, and tell me when you are finished.

A The last three and the first what?

Q First five on the next page. Read them to yourself, please.

(Pause)

Have you finished, sir?

A Yes.

Q Does that refresh your recollection as to what if anything Mrs. Grant told you Mr. Doulin said when she told you about her effort to get in touch with him?

A No.

Q At around the time when your son was sentenced in 1971 on criminal assault charges, did Mrs. Grant ever tell you anything else that she had attempted to do on behalf of Richard Monell?

A No.

Q Do you recall whether Mrs. Grant at about this time told you that she had taken any other steps to try and help out Richard Monell?

A No. All I know was, she was trying to help him. That is all I know about him.

Q She never told you what she had done?

A I didn't let her tell me what she had done.

Q Again, Mr. Monell, I am going to read some questions and answers to you from your grand jury testimony, and ask you whether you were asked these questions and gave these answers. Page 20, line 15:

"Q Do you recall what Mrs. Grant told you Mr. Doulin told her?

"A No, I don't recall. I know -- all I know about it is she said she talked to this one, that one, and the other, talked to the district attorney, talked to the Judge, talked to someone. What the conversation was I don't know."

Do you recall being asked that question and giving that answer?

A That's right.

Q At about the time that Richard Monell was in the Orange County Jail between his two sentences, do you

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recall any conversation, or were in the presence of  
Mrs. Grant at any time when she told you that she was  
having difficult reaching someone?

A Told me?

Q Yes.

A She didn't tell me she was having difficulty.

Q Never told you she was having difficulty getting  
in touch with someone?

A Not that I know of.

MR. PLATZMAN: I object to the form of that  
question. He has answered it already.

MR. PLATZMAN: I don't know whether the question  
is sufficiently direct so that the witness' answer  
becomes sufficiently responsive.

THE COURT: Do you want it stricken?

MR. PLATZMAN: I didn't hear it.

THE COURT: Let us have it read back.

(Question and answer read)

MR. PLATZMAN: It is done.

THE COURT: Then we will let it stand, since  
there is no application to strike.

MR. JOSSEN: May I have a moment, your Honor?

THE COURT: Yes.

(Pause)

1           Q       Is it your testimony, Mr. Monell, that you do  
2                   not recall any conversations at all with Mrs. Grant  
3                   between the time of the two sentences in 1971?  
4

5           A       I already told you I never had conversations  
6                   with her.

7           Q       Is it your testimony, sir, that you don't  
8                   recall being in Mrs. Grant's presence when she discussed  
9                   what she was going to do for Richard's case during that  
10                  period of time?

11          A       I didn't say I wasn't in her presence.

12          Q       Do you recall being in Mrs. Grant's presence  
13                   when she told you what she was trying to do for Richard  
14                   Monell during the time that Richard was in jail?

15                 MR. PLATZMAN: I object to the form of that  
16                   question.

17                 THE COURT: Sustained.

18          Q       Do you recall any occasion during the time that  
19                   Richard Monell was in jail between his two sentences when  
20                   Mrs. Grant told you something about Richard's case?

21          A       All Mrs. Grant ever told me was that she was  
22                   trying to help him out.

23          Q       Do you remember anything more specific than  
24                   that?

25          A       No.

1 wcjw 6

J. Monell - direct

2 Q Mr. Monell, I am going to ask you again to  
3 examine Government Exhibit 3541 for identification, and  
4 to look at pages 23, line 22, to page 25, line 15. Just  
5 read that to yourself.

6 A Where do you want me to start here?

7 Q Page 23, line 22.

8 A And how far do you want me to go?

9 Q To page 25, line 15. Read it to yourself and  
10 let me know when you are finished.

11 Q Are you finished, sir?

12 A Sure.

13 Q Having read the materials which I just gave  
14 to you, does that refresh your recollection as to the  
15 specifics of anything that Mrs. Grant said to you during  
16 the period of time that Richard was in jail in Orange  
17 County in 1971?

18 A Well, if you were talking about Mr. Doulin  
19 being on his vacation, I knew about that.

20 Q What's that, sir?

21 A What?

22 Q What do you recall now?

23 A That she tried to get a hold of Mr. Doulin and  
24 he was on his vacation.

25 Q Do you recall whether Mrs. Grant told you why

1 she was trying to get in touch with Mr. Doulin?

2 A No.

3 Q Do you recall whether Mrs. Grant told you that  
4 she did in fact get in touch with Mr. Doulin?

5 A I don't know whether she told me or I -- she  
6 must have got a hold of him, that's all I can figure  
7 out.

8 MR. PLATZMAN: Just a moment. I object.

9 THE COURT: Yes. I will strike that answer.

10 Q Mr. Monell, did Mrs. Grant tell you that she  
11 had got in touch with Mr. Doulin?

12 A Not that I can remember.

13 Q Do you recall being asked the questions and  
14 giving the answers which I have just shown to you?

15 A Yes.

16 Q Were those answers true when you gave them?

17 A They are essentially the same as what I am  
18 giving you now too.

19 MR. PLATZMAN: Just a moment. I object to this  
20 method with respect to questions and answers which are  
21 not even before the jury.

22 THE COURT: Overruled.

23 MR. SCHWARTZ: May we have the question reread.

24 (Question and answer read)  
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wcjw 3

J. Monell - direct

677

Q Mr. Monell, is it your testimony, sir, that you never responded to Mrs. Grant when she told you about Richard's case during the time that Richard was in jail?

A Essentially that is my answer.

Q What do you mean by "essentially," sir?

A I wasn't interested.

Q You were not interested in what was happening to your son at that time?

A No.

Q On how many occasions do you remember Mrs. Grant telling you about her grandson's problems?

A All during the period of from -- I forgot when it was, whenever they started this trial or whatever it was. I don't really remember how it all went.

Q Do you recall Mrs. Grant making reference to Mr. Doulin on more than one occasion during that period of time?

A Yes, she would see Mr. Doulin quite often so far as I know. Whether she was talking about Richard or not, I don't know.

Q During the occasions when Richard was in jail in Orange County in 1971, and Mrs. Grant talked to you about Richard's problems, how many times do you recall her making reference to Mr. Doulin?

1  
2 A Oh, probably every time in jail she probably  
3 went down to Bill to ask him what it was all about or could  
4 she help him out. That is all I know.

5 Q Did Mrs. Grant ever tell you that?

6 A Did she?

7 Q Yes, ever tell you that?

8 A She didn't tell me anything specific. She  
9 said she was talking to Mr. Doulin.

10 Q Did she tell you what she was talking to Mr.  
11 Doulin about?

12 A No.

13 MR. PLATZMAN: May it please the Court, I  
14 think we have gone over this same question quite a number  
15 of times; little repetitious.

16 THE COURT: He has answered the question.

17 MR. PLATZMAN: Yes.

18 THE COURT: I have heard a similar response  
19 about ten minutes ago.

20 Q Mr. Monell, did there come a time in 1971  
21 when you purchased some land?

22 A In '71, yes, sir.

23 Q Where was that land?

24 A In Stoneridge, New York.

25 Q When did you purchase it, sir?

1 wcjw 10 J. Monell - direct

2 A We finished the deal up I think sometime in  
3 July.

4 Q July of 1971; is that correct?

5 A Right.

6 Q How much did you pay for the property at that  
7 time?

8 A \$6500.

9 Q Do you recall how you paid for the property?

10 A How?

11 Q Yes. What form?

12 A Cash.

13 Q Excuse me?

14 A Cash.

15 Q Are you sure of that?

16 A Well, cash, in the sense that I put the money  
17 in the bank and give the guy a check for it.

18 Q Where did you get the money to purchase this  
19 property?

20 A Part of it was mine and part of it was Mrs.  
21 Grant's.

22 Q How much of it was yours?

23 A I would say somewhere around \$5,000, and \$1500  
24 was hers.

25 Q When did Mrs. Grant give you this \$1500?

1           wcjw 11                   J. Monell - direct                   680

2           A       When?

3           Q       Yes.

4           Q       When I needed it.

5           Q       When did you need it, sir?

6           A       Oh, I don't know, I put -- she gave me the

7 money and I put it in the bank. I don't remember what

8 the date was. I would have to look at that.

9           Q       You put it in the bank as soon as you got it?

10 You put it in the bank as soon as you got it?

11          A       When I asked her for it and she gave it to me

12 and I took it with mine and put it in the bank and that

13 was it.

14          Q       You wouldn't keep that amount of money around

15 the house, would you?

16          A       If I did I wouldn't tell you about it -- or

17 anybody else, for that matter.

18          Q       Do you know whether Mr. and Mrs. Grant were in

19 the habit of keeping that amount of money around their

20 house?

21          A       Not that I know of.

22          Q       Just so we are clear, Mr. Monell, did you in

23 fact keep an amount of money such as \$1500 around your

24 house at any time?

25          A       I refuse to answer that question.

1  
2 MR. JOSSEN: Your Honor, I would ask that  
3 you direct the witness to answer

4 THE COURT: I direct the witness to answer  
5 the question.

6 THE WITNESS: I have to answer it?

7 THE COURT: Yes.

8 A Yes, I have money around the house. I still  
9 got money around the house.

10 Q As much as \$1500 at any time?

11 A It might be more than that.

12 Q Mr. Monell, do you recall your grand jury  
13 testimony, being asked the following question and giving  
14 the following answer, page 30, line 8:

15 "Q Let me go back to the year 1971 again.

16 "When the criminal case was pending and your  
17 son was sentenced twice, did you keep cash around the home  
18 at that time?

19 "A I never keep cash around the house.

20 "Q To your knowledge does your wife?

21 "A Not that I know of."

22 Mr. Monell, do you recall being asked those  
23 questions and giving those answers?

24 A I sure do.

1 GWmch

2 Q Now, Mr. Monell, can you fix the time for us when  
3 Mrs. Grant gave you the \$1,500 in 1971?

4 A No, I can't.

5 Q The deal for this property was closed in July  
6 of 1971; is that correct?

7 A That's correct.

8 Q Do you recall how much the property cost you  
9 at that time?

10 A I just told you. \$6,500.

11 Q Do you recall who you purchased the property  
12 from?

13 A Mrs. Menner.

14 Q Do you recall when Mrs. Grant gave you this  
15 money did you put it in the bank right away?

16 MR. PLATZMAN: I object to that. He was asked  
17 that same question.

18 THE COURT: Overruled.

19 Q Do you remember the question?

20 A Give me the question.

21 MR. JOSSEN: Please read it, Mr. Reporter.

22 THE COURT: I will rephrase it.

23 You testified previously that you got \$1,500  
24 from Mrs. Grant.

25 First, would you tell us in what form you received

1 2 GWmch

J. Monell-direct

2 the money?

3 THE WITNESS: No, I really can't. I don't know  
4 whether it was cash or check.

5 MR. SCHWARTZ: I couldn't hear it.

6 THE COURT: He says, "I don't recall; it was either  
7 cash or check."

8 THE WITNESS: I really don't remember.

9 THE COURT: After you received the \$1,500 cash  
10 or check, what did you do?

11 THE WITNESS: I put it along with my money in  
12 the bank and then I went ahead and finished up the deal of  
13 paying for the property.

14 THE COURT: Will you tell us how long it was  
15 between the time you received the \$1,500 from Mrs. Grant  
16 and the time you put the money in the bank? A day, a week,  
17 a month?

18 THE WITNESS: I would say about six weeks,  
19 probably.

20 Q Do you recall, Mr. Monell, whether you put that  
21 \$1,500 in your savings account or your checking account?

22 A Checking account.

23 Q Mr. Monell, I show you what has previously been  
24 marked and introduced here as Government's Exhibit 30 in  
25 evidence. I ask you to look at the second check, dated

1 3 GWmch

J. Monell-direct/cross

2 July 2, 1971, in the amount of \$6,490.52.

3 Is that the check that you used to pay for the  
4 property which you purchased then?

5 A Yes. It's made out to Kate Rothenberg Menner,  
6 \$6,490.52.

7 Q And that is what you used to pay for the property;  
8 right?

9 A Right. Plus \$50 down.

10 Q Mr. Monell, in what bank or banks did you have  
11 a savings and checking account in March of '71?

12 A The National Bank of Orange & Ulster.

13 Q And did you have at that time a savings account  
14 and a checking account?

15 A Yes.

16 MR. JOSSEN: No further questions, your Honor.

17 THE COURT: You may inquire, Mr. Platzman.

18 CROSS-EXAMINATION

19 BY MR. PLATZMAN:

20 Q Mr. Monell, just a few questions.

21 You testified on direct examination, did you not,  
22 that Mr. Doulin is a friend of your family?

23 A That's right.

24 Q And had been for many years?

25 A That's right.

4 GWMch

J. Monell-cross

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Q I assume you also have other friends?

3

A I would hope so.

4

Q And Mr. Doulin has other friends?

5

A Well, that's for sure.

6

Q I gather from what you have testified here today that you were hardened against Richard's case and didn't want to bother with it; is that essentially correct?

9

A That's essentially correct.

10

Q But that people in the family were discussing Richard's case during the time that it was pending?

12

A That's right.

13

Q And that was from the date of the incident, that night Richard and his girl friend came back --

15

A Right.

16

Q -- until the time Richard was released from jail?

17

A Right.

18

Q And during that period, did you actually participate in any of these discussions that had taken place in the trailer?

20

21

A No.

22

Q And during this period, to the best of your knowledge, did Mrs. Grant from time to time speak to Mr. Doulin?

23

24

25

A As far as I know.

1 5 Glunch

J. Monell-cross

2 Q And did she speak to Mr. Doulin before 1968  
3 from time to time?

4 A Oh, yes.

5 Q And did she speak to Mr. Doulin from time to  
6 time after March 26, 1971?

7 A Sure.

8 Q They have been very good friends for many years,  
9 have they not?

10 A I have been married forty years and as far as  
11 I know she has been talking to him for that forty years.

12 Q So Mr. Doulin and Mrs. Grant were friends long  
13 before this incident and since that incident?

14 A That's right.

15 Q And they always spoke to each other?

16 A That's right.

17 Q Did Mrs. Grant tell you that she went to Mr.  
18 Doulin to have him fix her grandson's case?

19 A No, she did not.

20 Q Did she ever tell you she went to Mr. Doulin to  
21 have him take care of something on the case?

22 A No.

23 Q Did she indicate whether she was going to Mr.  
24 Doulin for advice and information?

25 A That she did.

1 6 GwMch

J. Monell-cross

2 Q Did she ever tell you that she was going to give  
3 Mr. Doulin money?

4 A No.

5 Q For the case?

6 A No, she did not.

7 Q Did she ever tell you that she was going to have  
8 Mr. Doulin see to it that one of the judges is going to give  
9 him probation?

10 A No.

11 Q Did there come a time in 1971 when you were  
12 interested in purchasing some property?

13 A Right.

14 Q What kind of property was it?

15 A Let me change that. Not specifically '71.  
16 My wife and I started about a year before on that project.  
17 My mother-in-law was interested in antiques and we put her  
18 up a 20 by 20 building on our property on Mossy Brook  
19 Road, and she very quickly outgrew that, so we started  
20 looking around to see what we could do.

21 So, actually, we had been looking around for quite  
22 awhile for a place, and we just happened to run into this  
23 one, and where the money deal came in, like I say, I had  
24 \$5,000 or a little better, and going around looking at  
25 places I found out \$5,000 wasn't going to cover it. So

1 7 GWmch

J. Monell-cross

2 I told her I didn't feel like borrowing the money, if she  
3 had the money I would like to depend on her to have it.

4 So she said all right, that's what she would do.

5 Q When you say your mother-in-law, you are referring  
6 to Mrs. Grant?

7 A Mrs. Grant, that's right.

8 Q And you say she had a little business at that  
9 time?

10 A Yes, the Little Valley Antiques. At that time it  
11 was on Mossy Brook Road on our property down there.

12 Q Was that her business or yours and hers jointly?

13 A The business is actually in my mother-in-law  
14 and my wife's name. They are the ones that have the  
15 right to write checks and stuff for it.

16 My mother-in-law and my father-in-law are actually  
17 the ones that take care of the business.

18 Q You mentioned another business on the premises,  
19 ice cream or something like that?

20 A That was later up -- after we bought the --  
21 after we bought the big building and made an antique  
22 shop out of it, then later we built the ice cream business.

23 Q What is your business, Mr. Monell?

24 A I am retired.

25 Q And before you retired, what business were you

1 3 GWmch

J. Monell-cross

2 engaged in?

3 A Truck driver.

4 Q This antique business was not run by yourself,  
5 it was your wife and your mother-in-law; is that right?

6 A Right.

7 THE COURT: Do they still run it?

8 THE WITNESS: Yes.

9 Q Is your mother-in-law active in it or your wife?  
10 Who is active in the business?

11 A Mostly my father-in-law. My mother-in-law might  
12 go up there once a week.

13 Q So that sometime prior to 1971 you had reached  
14 the conclusion that you needed some additional land; is that  
15 it?

16 A We needed a building. First she talked about  
17 renting, so we went out and figured out what it would cost  
18 to rent, and for the size of the business it wouldn't pay  
19 off. So then we decided to buy this building, which was  
20 an investment.

21 Q And where was this building located?

22 A This building is in Atwood, actually. The address  
23 is Stony Ridge on the mailing address.

24 Q Where with respect to where you were living at  
25 the time was it located, how far?

1 9 GWmch

J. Monell-cross

2 A About ten miles.

3 Q And how much land was involved, how much property?

4 A Land?

5 Q Yes.

6 A It's only three-tenths of an acre and a nine-room  
7 house.

8 Q And when did you first come across that piece of  
9 property and that building?

10 A We had been looking around and there was a little  
11 paper; I forgot the name of it.

12 Q Newspaper?

13 A I think they call it The Pennysaver, and it was in  
14 the ads, and my wife happened to spot it and we went up  
15 and looked at the place.

16 THE COURT: The question was when?

17 THE WITNESS: When?

18 A I misunderstood you.

19 Q Approximately when?

20 A When?

21 Q Yes.

22 A In the month of June. I don't know the exact date.

23 THE COURT: June 1971?

24 THE WITNESS: '71.

25 Q Your search for this property started when?

1 10 GWmch J. Monell-cross

2 1970? Is that what you said?

3 A Yes, back in 1970, probably in the fall of 1970.  
4 We had looked at a lot of different places.

5 Q Did there come a time when you discussed with  
6 Mrs. Grant the necessity of perhaps having some money,  
7 that the \$5,000 you had was not enough?

8 A That was it.

9 Q And did Mrs. Grant agree to give you some money?

10 A Yes, sir.

11 Q Do you remember when that took place?

12 A Well, it was after the first of the year, prob-  
13 ably --

14 Q The early part of the year?

15 A Yes. We talked about it in --

16 Q I show you Government's Exhibit No. 15 in evidence  
17 and ask you to examine this, please.

18 A Yes.

19 Q I show you Government's Exhibit No. 17. Look  
20 at it and examine this without commenting, and referring  
21 particularly to Line 16.

22 A Yes.

23 Q Now, does that refresh your recollection as to the  
24 date when you obtained the money from Mrs. Grant?

25 A She --

1 11 GWMch

J. Monell-cross

2 Q I will ask you again --

3 THE COURT: Let him answer. He is trying to  
4 answer your question.

5 A It takes a little explaining. We had talked  
6 about it, say, the last three months of '70. We had  
7 looked around and we realized we needed more money.  
8 Then I talked -- my wife and I both talked to my mother-  
9 in-law, right, and then she said she had the money.  
10 Now --

11 Can I go on?

12 Q I think the balance may not be responsive.  
13 What I am trying to find out, Mr. Monell, is  
14 I would like you to look at this exhibit once again of  
15 March 17, Line 16, where a date -- where you will see a date  
16 and then alongside of it an amount of withdrawal.

17 A Right.

18 Q Can you tell me by looking at that whether it  
19 refreshes your recollection when Mrs. Grant gave you the  
20 money?

21 A No, it doesn't, because that's what I was trying  
22 to explain to you.

23 THE COURT: All right. You have answered the  
24 question. You said that it does not refresh your  
25 recollection.

1 12 GWMch

J. Monell-cross

2 Q And then did there come a time when you made a  
3 deposit in your account in order to cover the \$6,500?

4 A Yes.

5 Q And did that include this \$1,500 -- \$1,490 or  
6 something that you got from your mother-in-law?

7 A Yes.

8 Q Do you know the date of that deposit?

9 A I don't recall the date, no.

10 MR. PLATZMAN: Mark this for identification,  
11 please.

12 THE COURT: Defendant's Exhibit A for iden-  
13 tification.

14 (Defendant's Exhibit A was marked for identifi-  
15 cation.)

16 Q I show you this photoprint copy, Defendant's  
17 Exhibit A for identification, and ask you to look at that  
18 and tell me whether it refreshes your recollection as to  
19 when that deposit was made.

20 A June 28th. Yes.

21 Q Did that include cash as well as checks?

22 A Yes. Mrs. Grant's \$1,500 and roughly a thousand  
23 of ours and another \$4,400.

24 Q Was there in addition to Mrs. Grant's cash  
25 additional cash put in?

1 13 Gwmmch

J. Monell-cross

2 A Yes. I just said \$2,400 cash altogether.  
3 That was her cash and mine and 4,400 a check.

4 Q And where was that put in, what bank?

5 A National Bank of Orange & Ulster.

6 MR. PLATZMAN: I don't know whether this is the  
7 same slip that's already in evidence. Yes, it is. I think  
8 this is an enlarged version of Government's No. 30  
9 which consists of a number of slips of paper, and I should  
10 like, for purposes of clarity then, to offer this in  
11 evidence.

12 MR. JOSSEN: No objection, your Honor.

13 THE COURT: Received.

14 (Defendant's Exhibit A was received in evidence.)

15 Q Did you eventually acquire that building, Mr.  
16 Monell?

17 A Yes, we own it now.

18 Q In whose name is the property?

19 A John H. and DeLevine Monell.

20 Q Is the property being used for any purpose?

21 A For an antique shop, yes.

22 Q Is that where the antique shop is located now?

23 A Right.

24 Q And Mrs. Grant is the one that is primarily  
25 active in that business?

1 14 GWmch

J. Monell-cross/redirect

2 A Right.

3 MR. PLATZMAN: No other questions.

4 MR. JOSSEN: May I have a moment, your Honor?

5 (Pause)

6 MR. JOSSEN: Just a few questions.

7 REDIRECT EXAMINATION

8 BY MR. JOSSEN:

9 Q Mr. Monell, do you recall being asked on cross-  
10 examination questions with respect to what Mrs. Grant told  
11 you she had discussed with Mr. Doulin about Richard  
12 Monell's criminal case, and in response to the questions  
13 you told us that Mrs. Grant told you she had contacted Mr.  
14 Doulin for advice and information but not money; is that  
15 correct?

16 A Correct.

17 Q Did Mrs. Grant tell you that Mr. Doulin had  
18 agreed to do anything for her in connection with Richard  
19 Monell's case?

20 A Not specifically.

21 Q Well, did she tell you in substance that Mr.  
22 Doulin had agreed to do anything for her in connection  
23 with Richard's criminal case?

24 A Mr. Doulin would do anything he could do.

25 Q Did she tell you in substance what that meant?

2 A It meant just what I said, whatever he could do  
3 he'd do.

4 Q Did si tell you that Mr. Doulin told her he  
5 would speak to people?

6 A I don't think so.

7 Q Did Mrs. Grant tell you that Mr. Doulin told  
8 her he knew people and he would speak to people?

9 A Mrs. Grant didn't have to tell me that. I  
10 already knew it.

11 Q Did Mrs. Grant tell you that, sir?

12 A No.

13 Q Mr. Monell, when you testified before the grand  
14 jury, do you recall being asked the following questions  
15 and giving the following answers, Page 19, Line 8:

16 "Q What did Mrs. Grant tell you Mr. Doulin said to  
17 her?

18 "A That he would do what he could.

19 "Q Did he say how he would go about doing what he  
20 could?

21 "A I don't know.

22 "Q She didn't tell you that?

23 "A No.

24 "Q She told you that?

25 "A In general conversation, she probably said he would

J. Monell-redirect

1 16 GWhch

2 talk to whoever he knew, he knew someone.

3 "Q I don't want you to guess. Do you recall what  
4 she said to you?

5 "A I'm trying to tell you to the best of my knowledge  
6 what I remember of it. He told her he knew people and he  
7 would talk to them. He knew the district attorney, the  
8 judge, being Republican chairman, he knew all these  
9 people, right."

10 Do you recall being asked those questions and  
11 giving those answers, sir?

12 A Right.

13 Q Mr. Money, you were shown a document on cross-  
14 examination and you testified with respect to that document  
15 that that was the time when you deposited the money Mrs.  
16 Grant gave you, is that correct, in connection with the  
17 purchase of the antique shop?

18 A Mrs. Grant's money and my own money.

19 Q And when did Mrs. Grant give you that money, sir?

20 A Somewhere around that time. I don't specifically  
21 remember.

22 Q Did you hold onto the money for a long time after  
23 Mrs. Grant gave it to you?

24 A No, I don't think so.

25 Q You deposited it immediately; is that correct?

1 17 Gwmc

J. Monell-redirect/recross

2 A That's a fair statement.

3 MR. JOSSEN: No further questions, your Honor.

4 RE-CROSS-EXAMINATION

5 BY MR. PLATZMAN:

6 Q One question.

7 When Mrs. Grant said to you she spoke to Mr.  
8 Doulin, did she tell you that Mr. Doulin said he knew  
9 judges and the district attorneys, or was that what  
10 Mrs. Grant said, or is that what you assumed?

11 MR. JOSSEN: Objection as to form, your Honor.

12 THE COURT: Yes. Take out that last part,  
13 "or is that what you assumed," and I will allow the  
14 question. You have two questions in one.

15 MR. PLATZMAN: May the reporter repeat it and leave  
16 out the last part?

17 (Record read as amended)

18 THE COURT: Was that what Mrs. Grant said to you?

19 THE WITNESS: You got me there. I got lost  
20 somewhere here.

21 Q I will rephrase the question.

22 Did Mrs. Grant say to you that she knew that Mr.  
23 Doulin knew judges and district attorneys or was it that  
24 Mrs. Grant said to you that Mr. Doulin told her he knew  
25 judges and district attorneys?

THE COURT: Do you understand the question?

THE WITNESS: The question is real confusing. I still don't get the point. I don't know what you are trying to ask me.

Q Do you remember being asked a question by Mr. Jossen about your conversation -- a statement that Mrs. Grant had made concerning her knowledge of Mr. Doulin and conversations with Mr. Doulin?

A Yes.

Q Did she tell you at any time that Mr. Doulin had said to her, "I know judges and district attorneys"?

A Did she say it? No, she never said that to me. Why would she have to say that to me?

A You knew he knew judges and district attorneys, didn't you?

A He is the Orange County Republican chairman. How could it be any other way?

Q Mrs. Grant didn't have to tell you Mr. Doulin knew judges and district attorneys?

A Mrs. Grant didn't have to tell me that.

Q You knew it?

A I knew it and everyone else in Orange County.

Q Did she tell you Mr. Doulin said he was going to go to judges and district attorneys and fix Richard's

1 19 GWhich  
2 case?

J. Monell-recross

3 A No.

4 MR. PLATZMAN: No further questions.

5 MR. JOSSEN: No further questions.

6 THE COURT: You are excused, sir.

7 (Witness excused)

8 THE COURT: Ladies and gentlemen, we will take  
9 our luncheon recess at this time. According to my watch  
10 and the courtroom clock it is five after 1:00.

11 Would it be convenient for you to return at  
12 five past 2:00? We will make it a one-hour lunch today.  
13 The jury is excused. I give you the usual admonition  
14 which I do when we leave the courthouse. Please do not  
15 discuss the case among yourselves nor remain within the  
16 presence of any person who may be discussing the case.  
17 If you learn anything about the case from any source outside  
18 of this courtroom, you are directed to report the matter  
19 to me at once.

20 Finally, please keep an open mind on all facets  
21 of the case until it has been completed and given to you  
22 following my charge.

23 The jury is excused. You are directed to return  
24 to resume hearing this case at 2:05 p.m, and I have made  
25 the jury a promise that you will be out of her before

1 20 GwmcH

2 5:00 p.m.

3 (The jury left the courtroom.)

4 MR. SCHWARTZ: After Mrs. Grant testified, I  
5 received another document which may be 3500 material with  
6 respect to her. Although she was questioned about it and  
7 in fact there is another document which Mr. Platzman had  
8 which contains the same material, I did want to hand him  
9 3542-A at this time and show the Court 3542.

10 The difference between the full exhibit and the  
11 redacted exhibit which Mr. Platzman has is Paragraph 1 in  
12 3542 has been removed from Mr. Platzman's copy. Otherwise,  
13 Mr. Platzman's copy is complete. The Government intends  
14 to call the author of 3542-A.

15 THE COURT: Very well. I think this was the  
16 subject of inquiry by counsel when Mrs. Grant testified, and  
17 I don't see anything here that might be called new material  
18 or new matter.

19 MR. SCHWARTZ: Although Mrs. Grant is still here.

20 THE COURT: Let Mr. Platzman look at the paragraph  
21 and if he wants her kept, he can make the request as  
22 long as she is still here.

23 MR. SCHWARTZ: Paragraph 6.

24 THE COURT: I will await his reading that and then  
25 if he wishes her retained to be recalled, we will do it.

1 21 GWmch

2 (Pause)

3 MR. PLATZMAN: At this point I don't see any  
4 reason for holding her. It hasn't been testified to by  
5 anyone. There is nothing I can do with her at this stage.

6 THE COURT: Very well. I just wanted you to  
7 have that option in the event you did require her to  
8 reamin, but now that you have read the material and feel  
9 it is not necessary to retain her, I will direct that  
10 she may leave when she sees fit to do so.

11 MR. PLATZMAN: Let me get this straight.

12 Is there going to be testimony concerning this  
13 Paragraph 6?

14 MR. SCHWARTZ: Yes, the Government intends to  
15 call Mr. Whalen, who is the author of that exhibit.

16 MR. PLATZMAN: When will that take place?

17 MR. SCHWARTZ: After the luncheon break.

18 MR. PLATZMAN: Then I think she had better  
19 remain.

20 THE COURT: Please see to it that she remains.  
21 Hopefully she will leave in midafternoon. You can  
22 indicate she is being asked to remain at the request of  
23 the Court on the application of Mr. Platzman.

24 MR. PLATZMAN: Can you leave my name out of this?  
25 He brought in the testimony.

1 22 Gwmch

2 THE COURT: If you want her kept, that's the  
3 way it will be. If you want it that she is kept at the  
4 request of the Court, I will do that.

5 MR. PLATZMAN: Thank you, sir.

6 THE COURT: That will be the instruction.

7 MR. SCHWARTZ: Thank you, your Honor.

8 THE COURT: Counsel are excused.

9 (Luncheon recess)

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1 gwjw 1

2 A F T E R N O O N S E S S I O N

3 2:05 P.M.

4  
5 (In open court - jury present)6 THE COURT: Good afternoon, ladies and  
7 gentlemen.8 I see everybody back promptly and we are ready  
9 to go.10 MR. SCHWARTZ: Your Honor, the government  
11 calls Edward Whalen.

12 THE COURT: Edward Whalen, please.

13  
14 E D W A R D W H A L E N , called as a  
15 witness by the Government, being first duly  
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SCHWARTZ:

19 THE COURT: You may proceed, Mr. Schwartz.

20 Q Mr. Whalen, what is your occupation?

21 A I'm a lieutenant in the New York State Police.

22 Q How long have you been with the New York State  
23 Police?

24 A Sixteen years.

25 Q I would like to direct your attention to March

1 gwjw 2

Whalen - direct

705

2 of 1974.

3 Were you then working for the New York State  
4 Police?

5 A Yes, I was.

6 Q Tell us, lieutenant, in what capacity were  
7 you working?

8 A At that time I held the rank of senior investi-  
9 gator in the New York State Police Bureau of Criminal  
10 Investigation, which is the investigatory arm of the State  
11 Police.

12 Q Were you assigned to any particular task force?

13 A I was, sir.

14 Q What was the name of that?

15 A I had been specially assigned to assist the  
16 Federal Bureau of Investigation in an investigation they  
17 were performing.

18 Q Directing your attention to March of 1974, did  
19 you have occasion to interview anyone or meet with anyone  
20 in connection with your duties?

21 A Yes, sir, I did.

22 Q In particular let me direct your attention to  
23 March 25, 1974.

24 Were you with any other investigators, either  
25 federal or state, on that day?

2 A Yes, sir, I was. I was with Robert Reutter,  
3 an agent of the Federal Bureau of Investigation.

4 Q Did you go anywhere with Mr. Reutter on that  
5 day?

6 A Yes, sir, I did.

7 Q Tell us where you went.

8 A I went to the residence of Jean and William  
9 Grant at High Falls, New York.

10 Q In Ulster County?

11 A Yes, sir.

12 Q When you arrived there who did you meet at  
13 their residence?

14 A Both Jean Grant and William Grant were present.

15 Q Would you describe what the residence looks  
16 like?

17 A It is located in a rural area of Ulster County.  
18 The residence consisted of a house trailer.

19 Q Did you at that time have a discussion with  
20 Mrs. Grant?

21 A Yes, sir, I did.

22 Q Would you tell us, before telling us anything  
23 about the discussion, who was present?

24 A Agent Reutter, Mr. Grant and Mrs. Jean Grant.

25 Q Tell us, if you can, as best you recall, the

1 gwjw 4

2 substance of the conversation at that time, what you  
3 told Mrs. Grant and what, if anything, she told you?

4 MR. PLATZMAN: Of course I am continuing to  
5 make the same objection. I assume, your Honor, the same  
6 ruling with the same admonition?

7 THE COURT: No, I think that this would require  
8 a side bar.

9 We are now up to March of 1974. Most of the  
10 other conversations, if not all of them, occurred in a  
11 period in 1968, '69, '70 and '71.

12 (At the side bar)

13 THE COURT: Under what exception to the hearsay  
14 rule is this conversation offered, 804 sub what?

15 MR. SCHWARTZ: Your Honor, we are offering this  
16 on a number of grounds.

17 First of all, this is not a statement which  
18 was in furtherance of the conspiracy.

19 THE COURT: No, that is why I called you to the  
20 side bar. In view of the time, I cannot imagine that it  
21 would have been.

22 What is it?

23 MR. SCHWARTZ: This is a statement which goes  
24 to the credibility of Mrs. Grant who has been here to  
25 testify and is available to be questioned again as to the

2 statements she made to this investigator in 1974. They  
3 are statements which are inconsistent with the testimony  
4 she gave earlier this morning.

5 Under the new rules the government does have  
6 a right, as we did this morning, to impeach our own witnesses  
7 and not to be in a position of vouching for them.

8 For that reason the government wants to  
9 further impeach Mrs. Grant's credibility. I am referring  
10 to Rule 607.

11 Your Honor, may I add that the government is  
12 not offering it as affirmative evidence. It is being  
13 offered as impeachment material going to Mrs. Grant's  
14 credibility.

15 MR. PLATZMAN: Except in this instance the  
16 kind of evidence that is being attempted to be offered on  
17 the question of credibility is highly inflammatory with  
18 respect to the merits and on that basis should not be  
19 included because it does go to the very heart of the issues  
20 in this litigation.

21 THE COURT: I am inclined to admit the evidence  
22 with the cautionary instruction.

23 Do you have a cautionary instruction to suggest,  
24 Mr. Schwartz?

25 MR. SCHWARTZ: Your Honor, I would suggest that

2 the jury be advised that the testimony they are going to  
3 hear concerning statements allegedly made by Mrs. Grant  
4 is not being offered to establish the truth of those  
5 statements but merely to establish that the statements  
6 were made, and the jury can at the time they deliberate  
7 consider those statements in determining the overall  
8 credibility of Mrs. Grant.

9 MR. PLATZMAN: The position of the defendant --

10 MR. SCHWARTZ: Excuse me. That is the only  
11 purpose for which they should use this testimony.

12 MR. PLATZMAN: The defendant urges, however --  
13 I'm sorry.

14 THE COURT: Yes, Mr. Platzman.

15 MR. PLATZMAN: The defendant urges, however,  
16 that under the guise of attacking the credibility of a  
17 witness, the government is introducing evidence which has  
18 not been established affirmatively as positive evidence  
19 and that the instructions or the caution that the jury  
20 is to exercise as a result of any instructions of the  
21 Court would not be adequate to erase the damage that this  
22 could do in view of the fact that the area being examined  
23 is a major area of issue in this case and, hence, any  
24 precautions that might be taken would not be able to  
25 prevent the jury from considering this fact and would be

2 to difficult to separate.

3 We urge that this would be highly prejudicial.

4 THE COURT: I will permit the testimony and  
5 will give a cautionary instruction to the following  
6 effect:

7 The testimony which you are going to hear concern-  
8 ing certain statements allegedly made by Mrs. Grant to  
9 the witness and Agent Reutter of the FBI is not being  
10 offered to establish the truth of those statements but  
11 merely that they were made. The only reason for this  
12 testimony being admitted is to assist you in determining  
13 the credibility of Mrs. Grant.

14 MR. SCHWARTZ: One more point on this.

15 I want Mr. Grant's man to know so he may not  
16 object. When I ask for the conversation, I am going to  
17 ask the witness, did you tell Mrs. Grant the purpose of  
18 your visit.

19 I expect the answer to be yes.

20 Then I am going to ask what Mrs. Grant said.

21 The reason I don't want to get into the purpose  
22 of what he told Mrs. Grant is that they had leads indicating  
23 that Mr. Doulin was involved in corrupt activities, and  
24 I don't want to bring that out.

25 I want Mr. Platzman to know that is the

2 reason I'm phrasing the question that way.

3 THE COURT: Very well.

4 MR. PLATZMAN: Based upon this, so we don't  
5 have to return to the bench again, if this evidence does  
6 go in, I am objecting to it and my objection should be  
7 noted.

8 In addition, if it does go in, I would consider  
9 it as a basis for an application for a mistrial. Rather  
10 than object at that time and to save the time so it isn't  
11 done in front of the jury, I'm making the statement now.  
12 If this evidence goes in, you can consider I am applying  
13 for a mistrial.

14 THE COURT: Very well.

15 The Court has determined to give a cautionary  
16 instruction and then to admit this testimony.

17 The Court will consider your motion for a  
18 mistrial nunc pro tunc. So you need not rise again to  
19 make that motion, I will consider it at this time.

20 Having considered your motion, which I deem  
21 to be timely made, I deny it.  
22  
23  
24  
25

(In open court)

THE COURT: Ladies and gentlemen, I give you the following instruction.

The testimony which you are going to hear concerning certain statements allegedly made by Mrs. Grant to this witness and to Agent Reutter of the FBI is not being offered to establish the truth of those statements, but merely to establish that they were made. The only reason for this testimony being admitted is to assist you in determining the credibility of Mrs. Grant, who testified here this morning.

You may proceed.

MR. SCHWARTZ: Thank you, your Honor.

Q Lieutenant Whalen, you were telling us that on March 25, 1974, you went to see Mrs. Grant. Who else was with her?

A Her husband, William Grant?

Q And who was with you?

A Agent Robert Reutter of the FBI.

Q And where did you meet them?

A At their residence. I believe it was their residence. A trailer in High Falls.

Q Did you explain to them the purpose of your presence there?

1 2 Gwmch

Whalen-direct

2 A Sir, we introduced ourselves, identified ourselves  
3 to Mr. and Mrs. Grant, and we told them that we were part --

4 THE COURT: You gave them to believe that you  
5 were there on an official matter; is that correct?

6 THE WITNESS: Yes, sir.

7 Q When you explained that you were there on official  
8 business, what, if anything, did anyone say?

9 A Mrs. Grant said, "I know why you're here. It's  
10 about the payoff. You want to know about payoffs and why  
11 Richie got probation."

12 Q Did she say anything else?

13 A She said that she had a friend who was a good  
14 friend of the governor and he was interested in helping  
15 Richie out.

16 Q Was anything else said?

17 A No.

18 Q Did Mr. Grant say anything?

19 A Yes, sir, he did.

20 Q What did he say?

21 A He told Mrs. Grant to be quiet, that she should  
22 talk to a lawyer before she said anything more to us.

23 Q Was anything said concerning Richie Monell?

24 A No.

25 MR. SCHWARTZ: No further questions.

1 3 GWmch

Whalen-cross

2 CROSS-EXAMINATION

3 BY MR. PLATZMAN:

4 Q Mr. Whalen, when you first spoke to Mrs. Grant,  
5 you told her why you were coming up to see her, did you  
6 not?

7 A Yes, sir.

8 Q And you spent some time explaining that to her?

9 A No, sir.

10 Q You told her, is that correct?

11 A Yes, sir.

12 Q When Mrs. Grant said to you, "I know why you're  
13 here and I know what you want. You want me to tell you  
14 about payoffs," was she telling you that was the truth  
15 or that's the reason why you were up here?

16 A I don't think I understand the question, sir.

17 Q When Mrs. Grant said to you, "I know why you're  
18 here. You want me to tell you about payoffs," was she  
19 telling you there were payoffs or that was the reason you  
20 were up there, to talk about payoffs?

21 MR. SCHWARTZ: Objection, your Honor.

22 THE COURT: It's what she said as accurately  
23 as the witness can remember.

24 MR. SCHWARTZ: My objection goes beyond that.  
25 It is not for this witness to characterize what Mrs.  
Grant meant.

1  
2 THE COURT: No, but he can ask, "Did she say  
3 this," "Did she say this," "Did she say this."

4 Q Did she say to you, "I know why you are here.  
5 You want to find out about payoffs"?

6 In substance, isn't that what she said?

7 A No, sir.

8 Q When did this take place, Mr. Whalen?

9 A March 1974.

10 Q This is three years after this incident had  
11 taken place; is that right?

12 MR. SCHWARTZ: Objection, your Honor.

13 THE COURT: Yes. I think the jury can do their  
14 arithmetic.

15 MR. PLATZMAN: It is part of the cross-examination,  
16 Judge.

17 THE COURT: If you ask a proper question, I will  
18 let it go in, but "this incident" would make it improper.

19 Q And she said that Mr. Doulin was a friend of  
20 the Governor's?

21 A She said that -- she told me -- she said that she  
22 had a friend who was a friend of the Governor's.

23 Q Did she tell you who that was?

24 A No, sir.

25 MR. PLATZMAN: I have no other questions.

1 5 GWmch Foley-direct

2 MR. SCHWARTZ: I have no further questions, your  
3 Honor.

4 THE COURT: Thank you very much, Mr. Whalen.  
5 You are excused.

6 (Witness excused)

7 MR. SCHWARTZ: The Government calls Francis  
8 Foley.

9 THE COURT: He was not here this morning. Let  
10 us hope he is here now.

11 Francis J. Foley, is that correct?

12 MR. SCHWARTZ: That is correct, your Honor.

13 F R A N C I S J. F O L E Y, called  
14 as a witness by the Government, being first duly  
15 sworn, testified as follows:

16 MR. PLATZMAN: May we approach the bench?

17 THE COURT: Yes.

18 (At the side bar)

19 (Discussion off the record)

20 (In open court)

21 MR. SCHWARTZ: May I proceed, your Honor?

22 THE COURT: You may.

23 DIRECT EXAMINATION

24 BY MR. SCHWARTZ:

25 MR. SCHWARTZ: May I have this marked Government's

1 6 Gwmch

Foley-direct

2 Exhibit 32 for identification?

3 (Government's Exhibit No. 32 was marked for  
4 identification.)

5 MR. SCHWARTZ: 33 for identification.

6 (Government's Exhibit No. 33 was marked for  
7 identification.)

8 MR. SCHWARTZ: 34 for identification.

9 (Government's Exhibit No. 34 was marked for  
10 identification.)

11 MR. SCHWARTZ: 35.

12 (Government's Exhibit No. 35 was marked for  
13 identification.)

14 MR. SCHWARTZ: And Government's Exhibit 36.

15 (Government's Exhibit No. 36 was marked for  
16 identification.)

17 Q Mr. Foley, please keep your voice up. There  
18 is a lot of noise from outside.

19 What is your occupation, sir?

20 A Chief deputy sheriff, supervisor of the civil  
21 division, Orange County sheriff's department.

22 Q Please keep your voice up.

23 How long have you held that position?

24 A Five years.

25 Q How long have you been with the Orange County

1 7 Gwmch

Foley-direct

2 sheriff's office?

3 A Just short of thirteen years.

4 Q Would you tell us briefly what the function of  
5 the Orange County sheriff's office is?

6 A We maintain a jail, serve civil process, and  
7 transport prisoners to and from courts.

8 Q And did your office have the same function in  
9 1971?

10 A Yes, sir.

11 Q During the course of performing your duties,  
12 do you come in contact with various documents used by the  
13 Orange County sheriff's office?

14 A Yes.

15 Q Let me show you what has been marked Government's  
16 Exhibit 32 for identification.

17 Would you look at it and, without telling us what  
18 it is, do you recognize it?

19 A Yes, I do.

20 Q How do you recognize it?

21 A I recognize it from experience in making them out.

22 Q Is the form familiar to you?

23 A Yes, it is.

24 Q Do you recognize any names on the form of employees  
25 at your office?

1 8 GwMch

Foley-direct

2 A Yes, I do.

3 Q And where are they on the form, the names?

4 A On the bottom.

5 Q Would you tell us what the document is?

6 A A prisoner's description sheet.

7 Q And when is such a document prepared?

8 A When an inmate is committed to the Orange County  
9 jail.

10 Q Who prepares it?

11 A The booking officer.

12 Q And is his name on the form?

13 A Yes, it is.

14 Q And is that a name you recognize?

15 A Yes.

16 Q Where is it on the form?

17 A Lower right corner.

18 Q Let me show you what has been marked Government's  
19 Exhibit 33 for identification.

20 Would you look at that?

21 MR. PLATZMAN: May it please the Court, if it is  
22 the intention of counsel to introduce these, may I  
23 suggest he do it one at a time rather than as a group?

24 THE COURT: Would you like to see the documents?

25 MR. PLATZMAN: I would like to see them as we

are going along.

THE COURT: Why don't you look at the first one so you know what that is. We will wait a moment until you have. Then counsel will continue his inquire relative to the next-numbered exhibit.

MR. PLATZMAN: Thank you very much.

Q I am going to continue to stand here, but keep your voice up so everybody can hear you.

Do you recognize this exhibit, Government's Exhibit 33 for identification?

A Yes, I do.

Q And how do you recognize that?

A From experience.

Q What do you mean, "from experience"?

A From having worked in the booking office, I made them regularly as part of my duties.

Q This kind of form?

A Yes.

Q And what is the functional purpose of this form?

A It's a booking office file card which is kept in alphabetical order in the booking office --

MR. PLATZMAN: I can't hear him.

THE COURT: I will have it repeated when he finishes his answer.

1 10 GWmch

Foley-direct

2 A It's a booking office file card kept for ready  
3 access for information as to charge, date admitted and  
4 other such information.

5 Q As to a prisoner?

6 A That's right.

7 THE COURT: Did you hear the anser, counselor?

8 MR. PLATZMAN: No.

9 THE COURT: Mr. Reporter, would you read it back,  
10 please.

11 (Record read)

12 Q Let me now show you Government's Exhibit 34 for  
13 identification.

14 Please look at both sides of that and tell me  
15 if you recognize what that is, and again, keep your voice  
16 up,

17 A Yes, I recognize it.

18 Q And how do you recognize it?

19 A From having worked in the jail.

20 Q You have seen that form before?

21 A Yes.

22 Q Do you recognize any of the names or signatures  
23 or handwriting on it?

24 A Yes, I do.

25 Q And would you tell us what it is you recognize

1 11 Gwmch

Foley-direct

2 on it?

3 A I recognize the initials.

4 Q Whose initials?

5 A Kenneth W. Davis, jail supervisor; George  
6 Penniex.

7 Q Who is he?

8 A He's a jailer.

9 Q You are point to a GP?

10 A That's right.

11 I also recognize the initials of the undersheriff,  
12 Charles A. Conklin.

13 Q Is that in ink of pencil?

14 A Black ink.

15 Q Near the bottom?

16 A Yes.

17 Q Now let me show you what we have marked  
18 Government's Exhibit 33 for identification.

19 Would you look at that and tell us whether you  
20 can identify it?

21 A Yes, I can.

22 Q And again, how is it you can identify it?

23 A From having processed these when it was my duty  
24 to make entries in the commitment book.

25 Q When you say "these," you mean this form that is

Foley-direct

1 12 Gwmch

2 Government's Exhibit 35?

3 A That's right.

4 Q And that's a form you have seen before during  
5 the course of your duties in the sheriff's office?

6 A That's right.

7 Q And on the right-hand side of the form there  
8 are certain red stamps with words stamped on each line,  
9 or almost every line.

10 Is that something you have seen before?

11 A Yes.

12 Q And what is the purpose of those stamps?

13 A It explains why a prisoner is released, the reason  
14 for his release.15 Q Is this a form as well as the others used to keep  
16 track of prisoners?

17 A Yes, it is.

18 Q And finally, let me show you Government's  
19 Exhibit 36 for identification and tell me whether you can  
20 identify that form.

21 A Yes, I can.

22 Q And how?

23 A It is a daily census sheet used regularly in the  
24 course of our work.

25 Q And again, as with this form and the others that

Foley-direct

1 13 Gwmc

2 you have identified, are they used to keep track of prisoners  
3 that are being held in the custody of the Orange County  
4 jail?

5 A Yes.

6 Q And are they also used to account for the movement  
7 of prisoners from one place to another?

8 A Yes.

9 Q Now, all of these records that you have identified,  
10 Exhibits 32 through 36, are they records that are kept  
11 by the Orange County sheriff's office in order to conduct  
12 its daily business and its ordinary business?

13 A Yes.

14 Q And are they records that are ordinarily kept  
15 by the Orange County sheriff's office?

16 A Yes.

17 Q Now, there is certain information contained on  
18 these exhibits.

19 Is that information placed on there at or about  
20 the time the events take place?

21 A Yes.

22 MR. SCHWARTZ: At this time, your Honor, the  
23 Government offers Exhibits 32 through 36.

24 MR. PLATZMAN: May I look at this last one?

25 THE COURT: Yes.

1 14 GWinch

Foley-direct

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2 (Pause)

3 MR. PLATZMAN: May I have a short voir dire  
4 on this one?

5 THE COURT: Yes, you may.

6 (Continued on next page)

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Foley - direct

2 VOIR DIRE EXAMINATION

3 BY MR. PLATZMAN:

4 Q Mr. foley, this last Exhibit 36 that counsel  
5 asked you about, what is this supposed to represent?

6 A That would give the name of each inmate, his  
7 tier number and his cell number. That would be basically  
8 the only document in our office that would give all that  
9 information, the information on every prisoner.

10 Q Is this for just one day of the month?

11 A Yes, it is.

12 Q Do you type up one like this every day; is that  
13 it?

14 A Yes, sir.

15 Q Thank you.

16 THE COURT: Any objection?

17 MR. PLATZMAN: No, your Honor. I don't have  
18 any objection to any of it.

19 THE COURT: All right, Government's Exhibits  
20 32 to 36 for identification received, no objection.

21 (Government's Exhibits 32 through 36  
22 for identification received in evidence)

23 CONTINUED DIRECT EXAMINATION

24 BY MR. SCHWARTZ:

25 Q Mr. Foley, let me direct your attention to

2 Exhibit 35, which is now in evidence.

3 Do you see the name Richard Monell on the  
4 right-hand side of the page?

5 A Yes, I do.

6 Q And a red ink crossing out some information  
7 on that line?

8 A That's right.

9 Q Can you read what is written in red ink?

10 A Yes, I can.

11 Q What does it say?

12 A It says "To Sing Sing".

13 Q And that is crossed out?

14 A That's right.

15 Q Let me show you Government's Exhibit 34, which  
16 is in evidence, and direct your attention to an entry on  
17 3/16/71.

18 Can you explain from Government's Exhibit 34  
19 why there would be some crossing out on Government's  
20 Exhibit 35?

21 A Yes.

22 Q Please do.

23 A It indicates that on that date the inmate went  
24 to Sing Sing and was returned the same day.

25 THE COURT: When you say "On that date,"

1 gwjw 3

Foley - direct

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2 March 16th?

3 THE WITNESS: March 16th.

4 Q 1971?

5 A That's right.

6 Q There are other indications on the car, 34 in  
7 evidence, and in places the letters RET period appear,  
8 RET without a period.

9 Is that an abbreviation for something?

10 A Yes, it is.

11 Q For what?

12 A That means return.

13 Q In some cases there is the abbreviation A.M.

14 Does that refer to the time or is that the  
15 initial of a person?

16 A No, that would be the initial of the booking  
17 officer or the jailer.

18 Q What is his name, if you recall?

19 A I believe that would be Al Martin.

20 MR. SCHWARTZ: I have no further questions,  
21 your Honor.

22 MR. PLATZMAN: May I have another moment?

23 THE COURT: You may.

24 MR. PLATZMAN: Thank you.

25 (Pause)

## 2 CROSS EXAMINATION

3 BY MR. PLATZMAN:

4 Q Mr. Foley, just one or two very brief questions.

5 On this Government's Exhibit No. 35 Mr. Monell's  
6 name, Richard Monell was written in originally; is that  
7 correct?

8 A Yes, sir.

9 Q When it was written originally, what was the  
10 purpose of writing his name down on that chart to cover  
11 that date?

12 A That would mean he was leaving the jail.

13 Q Is there any indication of where he would be  
14 going when he was leaving the jail or is that a record  
15 made elsewhere?16 A That is where the -- where it is written in  
17 red ink, to Sing Sing.18 Q When his name was written down there, did you  
19 know that he was going to go to Sing Sing?

20 A I would assume so, sir.

21 Q Then can you tell me why his name was crossed  
22 out and then Sing Sing written over that? Does that  
23 take place afterwards?24 A No, sir. I'm sorry. The crossing out probably  
25 took place afterwards.

2 Q When a prisoner goes anywhere his name is put  
3 on there; is that right?

4 A If he's being transferred or if he's going to  
5 court in someone else's custody -- if he's going to court  
6 in our custody, in the custody of the Sheriff's Department  
7 that is, his name would not be entered on there.

8 Q When is his name entered on this sheet?

9 A It is apparent that he was scheduled to go to  
10 Sing Sing.

11 Q Was everyone's name on that list scheduled to  
12 go to Sing Sing?

13 A Oh, no, sir. That's why this particular one  
14 says Sing Sing. The rest of them say discharged, to  
15 court, on bail, whatever.

16 Q Can you tell us the reason that his name was  
17 stricken out?

18 A Because he was returned that same day still  
19 in our custody.

20 Q Wasn't that true also of Lawrence Thomas who  
21 was returned to your custody, had gone to court? And that  
22 isn't stricken out, is it?

23 A No, sir. Lawrence Thomas didn't go to court  
24 in our custody.

25 Q In whose custody?

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A It would be another police department.

Q What are these names on the left-hand column?  
What do they have reference to?

A They are the names of all inmates who were  
committed on that date and the time of their commitment.

Q And the one on the right-hand side is --

A All discharges.

Q Where it states "To court," that means it wasn't  
in your custody; is that it?

A That would be to a local court, city court or  
any other court than county court.

Q But who would accompany them to that court?

A An officer from that jurisdiction.

Q Not the Sheriff's Office?

A That's right.

Q In the case of Richard Morell, who accompanied  
him to Sing Sing?

A Sheriff's Department.

Q This is the record, your custody record sort  
of; am I labeling it correctly?

MR. SCHWARTZ: Can we have the exhibit number,  
please?

MR. PLATZMAN: Number 36.

A Basically we call it a census sheet.

2 Q Census sheet. Okay.

3 For the 16th day of March.

4 A That's right.

5 Q Is Mr. Monell's name on this? Could you find  
6 that for me if it is there?

7 A Yes, it is.

8 THE COURT: In the left-hand column that you  
9 are pointing?

10 THE WITNESS: Yes, sir.

11 THE COURT: Show it to counsel.

12 (Pause)

13 Q Thank you very much.

14 MR. PLATZMAN: No other questions.

15 MR. SCHWARTZ: No further questions.

16 THE COURT: Thank you very much, Mr. Foley.  
17 You are excused.

18 (Witness excused)

19 MR. SCHWARTZ: Your Honor, the government  
20 calls Norman Shapiro.

21 THE COURT: Norman Shapiro, please.

22 N O R M A N S H A P I R O , called as a  
23 witness by the Government, being first duly  
24 sworn, testified as follows:

25 MR. SCHWARTZ: May I proceed, your Honor?

THE COURT. You may.

DIRECT EXAMINATION

BY MR. SCHWARTZ:

Q Mr. Shapiro, please keep your voice up. The acoustics are not good in this courtroom.

What is your current occupation, Mr. Shapiro?

A I am the District Attorney of Orange County, New York.

Q How long have you had that position?

A Since about August 19th of this year.

Q How did you obtain or occupy that position?

A I was appointed district attorney by the governor of the State of New York on the death of the late district attorney, Abraham J. Weissman.

Q When was that?

THE COURT: August 19, 1975.

THE WITNESS: Yes, sir. Thank you.

Q Prior to that what was your position?

A I was the chief attorney of the Orange County Legal Aid Society.

Q How long did you hold that position?

A Since January of 1967.

Q Would you tell us briefly what your function was as the chief attorney for the Orange County Legal

1 gwjw 9

2 Aid Society?

3 A I was the public defender of Orange County,  
4 the law guardian for persons accused of juvenile delinquency  
5 and similar matters in the Family Court as well as being  
6 in charge of the civil cases that were being handled by  
7 that office.

8 Q Did there come a time that you were assigned  
9 to represent Richard Monell?

10 A Yes.

11 Q Do you recall when that was?

12 A I think it was in 1968. I would have to look  
13 at my file to be more precise.

14 Q Let me show you what has been previously marked  
15 Government's Exhibit 2 for identification.

16 Would you look at that and tell us if you can  
17 recall when you were assigned to Richard Monell's case?

18 A Look inside it?

19 Q Yes.

20 A October 18, 1968.

21 Q At the time you were assigned, what plea had  
22 Mr. Monell entered in that case?

23 A Not guilty.

24 Q By the way, do you recall the charges?

25 A The charges were first degree assault, I believe.

Q During the time that you represented Mr. Monell, did there come a time where he changed his plea to guilty?

A Yes.

Q Do you recall when that occurred?

A Again, not without looking at the file.

Q Do you recall approximately?

A I think it occurred about the end of 1970, but I would have to look at the file to be sure.

Q Do you recall having any conferences with Mr. Monell prior to the time he changed his plea?

A Yes.

Q Let me show you your file again and see if you can fix the time.

THE COURT: Start with the date of the plea.

THE WITNESS: Yes, sir.

THE COURT: And the plea itself.

THE WITNESS: Yes, sir.

A Richard Monell entered a plea to attempted -- of guilty to attempted assault in the second degree on December 14th.

Q And you represented him at that time?

A Yes.

Q Prior to the entry of that guilty plea --

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Shapiro - direct

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2 THE COURT: Excuse me. December 14th. I did  
3 not get the year.

4 THE WITNESS: It is not in this memorandum, but  
5 I believe it was 1970.

6 THE COURT: I believe there has been prior  
7 testimony to that effect, so we will take it for that  
8 date.

9 Q Prior to the change of plea to guilty, did  
10 you meet at all with Mr. Monell?

11 A Yes.

12 Q Did you have any discussions with him concerning  
13 his change of plea?

14 A Yes.

15 Q Do you recall any specific discussions?

16 A Yes.

17 Q Do you recall when the discussion or discussions  
18 took place?

19 A No, not precisely.

20 Q Approximately.

21 A I think -- I think they occurred on the same  
22 day at which he changed his plea, the discussion that I  
23 have in mind.

24 Q Do you remember where the discussion took  
25 place?

A It would have taken place somewhere in the Orange County Courthouse.

Q Can you recall where?

A No.

Q Do you recall if anyone else was present other than you and Mr. Monell?

A I do not recall that anyone else was present.

Q Tell us what was said at that time in substance.

A In substance we discussed the change of plea and somewhere along the line he said to me that --

MR. PLATZMAN: May it please the Court, we have again conversations with third parties.

THE COURT: I will make the same ruling here. At this point I will still say subject to connection. I have reached certain conclusions of my own on that score. I make the same ruling as before.

MR. SCHWARTZ: Thank you, your Honor.

Q Mr. Shapiro, you were telling us of the conversation.

A He said in substance that he would take the plea, that he didn't have anything to worry about.

Q What did you tell him?

A I don't recall precisely what I said to him or precisely what he said to me.

2 I recall him saying what I told you before in  
3 substance. I think after that he took the plea.

4 Q Did you discuss with him at all the number of  
5 years he might face?

6 A I always tell clients, told clients in the  
7 past --

8 MR. PLATZMAN: I object to that, if it please  
9 the Court, and move to strike that.

10 THE COURT: Yes. I think we ought to be  
11 specific relative to him.

12 You had a practice and you followed it here.  
13 Just tell us what you told him.

14 A I had a practice and I believe I followed it  
15 here, your Honor. I would have told him what his sentence  
16 was he was facing.

17 MR. PLATZMAN: I object to the answer and move  
18 to strike it out.

19 THE COURT: It is stricken.

20 Is it your best recollection you told him what  
21 he was facing on his plea?

22 THE WITNESS: Yes, sir.

23 Q By facing do you mean the number of years, the  
24 maximum that he was possibly facing?

25 A Yes, as well as other intermediate sentences

2 less than the maximum.

3 Q Prior to Mr. Monell entering his guilty  
4 plea, had you had any discussions with the district  
5 attorney's office concerning the entry of that plea?

6 A Yes.

7 Q Did they relate in any way to the sentence  
8 that Mr. Monell might receive?

9 A No.

10 Q Were there any commitments of any kind from the  
11 district attorney's office as to Mr. Monell's sentence  
12 or what the district attorney's office might recommend?

13 A No.

14 Q Let me now direct your attention to March 5,  
15 1971.

16 Do you recall what, if anything, happened on  
17 that day in connection with the Monell case?

18 A I think that was the day at which he was  
19 sentenced for the first time, March 5, 1971. I would  
20 like to look at the file to refresh my recollection.

21 Q Go right ahead.

22 (Pause)

23 A Yes, that was the date at which he was sentenced  
24 for the first time.

25 Q You are holding up a piece of paper. Let's

1 gwjw 15

Shapiro - direct

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2 mark it.

3 MR. SCHWARTZ: May we mark this as Govern-  
4 ment's Exhibit 2-E for identification.

5 (Government's Exhibit 2-E marked for  
6 identification)

7 MR. SCHWARTZ: Having been removed from  
8 Government's Exhibit 2.

9 Q Mr. Shapiro, what is Government's Exhibit 2-E?

10 A It is what is called a pink slip of the  
11 Orange County Legal Aid Society. That is a court report  
12 form which is normally fastened to the outside of the file  
13 when a case goes down to the courtroom and on which the  
14 attorney makes certain notations indicating what has  
15 occurred in the courtroom.

16 This one is dated March 5th and it has --  
17 it says "Report by N.S." I'm N.S. It has a notation on  
18 it in my handwriting.

19 Q Would you tell us what you recall happening on  
20 March 5, 1971 in the Orange County courtroom. First, who  
21 was present?

22 A Presiding Judge was Abraham Isseks, County  
23 Judge. I was present as defense counsel. Mr. Monell was  
24 present. Jerome Cohen was present. He was -- I think he  
25 was acting district attorney at the time. There were

1 gwjw 16

Shapiro - direct

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2 probably other people in the courtroom, but I do not  
3 recall them.

4 Q Do you recall what happened in connection with  
5 the Monell case?

6 A Yes.

7 Q Tell us as best you recall what happened.

8 A The defendant was arraigned for sentence. I  
9 made the usual pre-sentence remarks to the Court. The  
10 defendant was sentenced to an indefinite term with a  
11 maximum of two and a half years in state prison.

12 Q Do you recall anything else?

13 A Well, I recall that was an improper sentence.  
14 I brought it to the attention of the district attorney.  
15 It was an improper sentence under the law.

16 At that time I attempted to arrange for a  
17 resentencing with an appropriate sentence.

18 Q Were you successful at that time in arranging  
19 a resentence?

20 A No.

21 Q You said it was an indefinite sentence, not  
22 to exceed two and a half years.

23 A Yes, sir.

24 Q Was that the same thing as zero to 2-1/2?

25 A No, sir.

1  
2 Q What does indefinite, not to exceed two and  
3 a half mean?

4 A That is the terminology that was used under  
5 the prior penal law and by operation of the correction  
6 law as it existed at that time it meant one year to two  
7 and a half years, as best I can recall. One year to two  
8 and a half years by operation of law.

9 Q In other words, there was a minimum?

10 A The correction law established a minimum of one  
11 year in state's prison as I recall the law at that time.

12 Q Following the sentencing on that date, what did  
13 you do?

14 A I made -- I returned to my office. I took care  
15 of whatever other business I had in the courtroom. I  
16 can't recall what it might have been. I returned to my  
17 office in the same building.

18 Q Did anything happen in your office in connection  
19 with the Monell case?

20 A Yes. Late in the afternoon something happened.

21 Q First tell us what happened without telling  
22 us the substance of it.

23 A I received a telephone call.

24 Q This was the same day of the sentencing?

25 A Yes.

1 gwjw 18

Shapiro - direct

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2 Q Did the person who called you identify himself  
3 or herself?

4 MR. PLATZMAN: I object to this, if it please  
5 the Court.

6 THE COURT: Overruled.

7 A Yes.

8 Q I didn't hear the answer.

9 A Yes.

10 Q Did that person identify himself or herself  
11 by name?

12 A Yes-

13 Q In any other way?

14 A Yes.

15 MR. PLATZMAN: May it please the Court, I  
16 have a continuing objection to this. This is an attempt  
17 to identify by the statements itself, which is no identifi-  
18 cation. I am objecting to this whole line of testimony.

19 THE COURT: Overruled.

20 Q What name was given to you by the caller?

21 A Mrs. Grant.

22 Q Can you describe the state of her voice at  
23 the time?

24 A Well, it seemed to me that she was agitated and  
25 excited.

Q Did Mrs. Grant say anything to you at that time?

A Yes.

Q Tell us as best you recall what she said to you and what you said to her.

MR. PLATZMAN: I object to this, if it please the Court.

MR. SCHWARTZ: Your Honor, this is the second time with respect to the same conversation that there has been an objection. The witness should be able to testify. An objection has been made and ruled upon.

THE COURT: He wants to protect his record. Overruled.

Incidentally, my recollection is that Mrs. Grant during her direct testimony this morning testified that she called and spoke with Mr. Shapiro at some point.

Had you ever heard from this woman before?

THE WITNESS: I don't believe I ever spoke to her before, your HONOR.

THE COURT: All right.

I will allow you to proceed, counsel.

Q Tell us, Mr. Shapiro, what did Mrs. Grant say to you and what did you say to her, the substance of the conversation.

A The substance of the conversation was that she

2 was the grandmother of Richard Monell, that she was --  
3 this is the substance, not her actual words -- she was  
4 upset by the sentence that he had received, that something  
5 else had been -- these are her words "bought and paid for."

6 I told her in substance I didn't know what  
7 she was talking about and she referred to, and I quote  
8 again, "The undertaker." That is the word I'm quoting.

9 The conversation was terminated after some  
10 further exchange where I indicated that I did not know  
11 what she was talking about.

12 Q When you say, "terminated", you mean she hung  
13 up?

14 A I don't know who hung up. I can't recall.

15 Q Is that all you remember of that conversation?

16 A I remember making a note of it. No, as far as  
17 words were concerned, I think she also said something  
18 about Florida, about the undertaker being in Florida.

19 Q Anything else?

20 A No.

21 MR. SCHWARTZ: May I have this marked  
22 Government's Exhibit 2-F for identification, please.

23 (Government's Exhibit 2-F marked for  
24 identification)

25 Q Mr. Shapiro, let me show you 2-F.

1 gwjw 21

2 Without telling us what is in the document,  
3 do you recognize it?

4 A Yes.

5 Q How do you recognize it?

6 A Well, I recognize the form as a form that I  
7 originally designed for the Orange County Legal Aid  
8 Society to record telephone calls and personal interviews.  
9 I recognize the particular paper by the notes on it and  
10 my initials on it.

11 Q You recognize the handwriting on it?

12 A My handwriting is on it, yes, sir. I recognize  
13 it.

14 Q Excuse me.

15 A I said my handwriting is on it and I recognize  
16 it.

17 Q Is it more than one color ink on the paper?

18 A Yes.

19 Q Is your handwriting all in one color?

20 A My handwriting is entirely in red on this paper.

21 Q Do you recognize the other handwriting?

22 A I think I do.

23 Q Whose handwriting do you think it is?

24 A I think it is the handwriting of a lady who was  
25 then a secretary in my office named Kathy Marie Alfano.

take

1 1 GWMch

Shapiro-direct

2 Q And the red is in your handwriting?

3 A The red is definitely my handwriting.

4 Q And this is a document -- when did you prepare  
5 it?

6 A Contemporaneously with the telephone call, while  
7 the phone call was going on.

8 MR. SCHWARTZ: Your Honor, the Government offers  
9 Exhibit 2-F.

10 THE COURT: Show it to counsel.

11 MR. PLATZMAN: I have the same objection to this.

12 THE COURT: You had better specify what you mean.

13 MR. PLATZMAN: This is associated with a conver-  
14 sation which in and of itself the defendant says is  
15 not admissible, and therefore any record relating to it is  
16 likewise not admissible.

17 THE COURT: You don't object to its authenticity  
18 or materiality; you object to it for the same reason the  
19 conversation shouldn't be admitted?

20 MR. PLATZMAN: Yes, your Honor.

21 THE COURT: How is this document being offered,  
22 counsel?

23 MR. SCHWARTZ: Your Honor, it is offered in two  
24 ways. First of all, it's a contemporaneous document made  
25 by this witness at the time of the conversation and reflecting

1 2 GWMch

Shapiro-direct

2 what he heard or testified to hear from the witness  
3 stand, and it's offered on that basis, and it also includes  
4 statements which were offered on the other basis referred  
5 to by counsel.

6 If I hand up the document --

7 THE COURT: Yes, let me see it.

8 (Document handed to the Court)

9 THE COURT: I don't think it comes in under  
10 803.5 as recorded recollection, which reads:

11 "Recorded recollection and memorandum or record  
12 concerning a matter about which a witness once had knowledge  
13 but now has insufficient recollection to enable him to  
14 testify fully and accurately," with emphasis on those  
15 words, "shown to have been made or adopted by the witness  
16 when the matter was fresh in his memory and to reflect that  
17 knowledge correctly."

18 I fail to see where Mr. Shapiro has demonstrated  
19 insufficient recollection to enable him to testify fully.

20 MR. SCHWARTZ: Your Honor, this is also a record  
21 which he has testified was made for the file. He described  
22 the form.

23 THE COURT: Now you are calling it an 803.6 record  
24 of a regularly conducted business activity.

25 MR. SCHWARTZ: I submit it is part of his business

3 GWmch

Shapiro-direct

to record such contacts in connection with a case he is handling for the Legal Aid Society.

THE COURT: You have got to tell me which of these subdivisions of 803 this is offered under.

I took it first under 803.5 and I don't think it qualifies, and now you seem to indicate you are offering it under 803.6, a record of regularly conducted activities.

MR. SCHWARTZ: I do not offer it as recollection recorded.

THE COURT: Let's eliminate that.

MR. SCHWARTZ: It is offered as an activity which Mr. Shapiro conducted in the normal course of his duties for the Legal Aid Society in maintaining the file of the Legal Aid Society, and in maintaining all the files in connection with the Monell case.

THE COURT: Does this come in only on the claim of recent fabrication? Isn't it really only utilizable at that point and therefore we have to wait and see?

At the moment the witness, in my judgment, testified with some refreshed recollection about the conversation with the woman who identified herself as Mrs. Grant. You say as he was talking he was writing down what was said. This does appear to be a summary.

1 4 GWmch

Shapiro-direct

2 I think it might very well be better held unless  
3 and until there is a charge of recent fabrication.

4 MR. SCHWARTZ: Very well. I will withdraw it  
5 at this time.

6 Q Mr. Shapiro, let's return again to the courtroom  
7 on March 5th after Richard Monell was sentenced.

8 Do you recall the reaction of Richard Monell at  
9 that time?

10 A No, I don't.

11 Q Then you told us you returned to your office --

12 THE COURT: You don't recall if he said something  
13 to you, said nothing to you, or what?

14 THE WITNESS: I have no recollection of anything,  
15 your Honor.

16 Q Did you attempt to have Mr. Monell resentenced?

17 A Yes.

18 Q And would you tell us what you did in order to  
19 arrange that?

20 A I made several attempts to have him resentenced.  
21 On some occasion I spoke with Mr. Cohen; on other  
22 occasions I had the office manager of the Legal Aid office  
23 call the lady down at the D.A.'s office who prepares the  
24 calendar to try to have the case put on. On one occasion  
25 I recall speaking to Mr. Cohen specifically.

1 5 GWmch

Shapiro-direct

2 Q What is the purpose of having his name put on  
3 the calendar?

4 A So the defendant will be brought over from the  
5 county jail into court, and so the clerk will call the  
6 case.

7 Q Does a copy of the calendar go to the sheriff's  
8 office?

9 A I think the policy of the district attorney's  
10 office at that time was to prepare the calendar, give a  
11 copy to the sheriff, give several copies to the court clerk,  
12 and in case of a sentencing calendar, copy to the probation  
13 department as well.

14 Q Did you notify anybody of these efforts to obtain  
15 a resentencing?

16 A I spoke to Mr. Cohen about it.

17 Q Anyone in the Monell family?

18 A I think so. I think I sent copies of letters  
19 to members of his family when I would write to Mr. Monell  
20 about it.

21 Q Do you recall if you have those letters?

22 A I would have to look in the file to be sure,  
23 but I think I saw some when I was looking through the  
24 file before.

25 Q Let me show you three exhibits which have been

6 GWmch

Shapiro-direct

previously marked as Exhibits 2-A, 2-B and 2-C.

A Yes, I have them.

Q Does that refresh your recollection?

A Yes.

Q Did you attempt to notify people in the Monell and Grant family?

A 2-A indicates on March 8, 1971, I wrote to Mr. Monell and sent a copy of the letter to Mrs. D. Monell, who I think is his mother.

March 15th, I wrote to Mr. Monell about his resentencing possibilities, and sent copies to Mr. and Mrs. Monell and Mrs. Jean Grant.

And on March 16, 1971, I wrote directly to a Mrs. Richard Monell -- I don't know who that would be. It might be a mistake for his mother's first name -- at P.O. Box 495, Route No. 1, High Falls, New York.

Q At the time that you wrote those letters, Mr. Shapiro, did you know why the resentencing was being delayed, if it was?

MR. PLATZMAN: I object to the form of that question.

MR. SCHWARTZ: I will withdraw it, your Honor.

Q Did you have discussions with the district attorney's office concerning arranging a resentencing?

1 7 GWmch

Shapiro-direct

2 A Yes.

3 Q With whom?

4 A On March 8th I spoke to Jerome S. Cohen about  
5 arranging a resentencing.

6 Q And was a resentencing arranged as a result of that  
7 conversation?

8 A No, it was not.

9 Q Were you advised by the district attorney's  
10 office the reason for not arranging it, yes or no?

11 A Yes.

12 Q Who advised you?

13 MR. PLATZMAN: I object to this. It is a conver-  
14 sation with a third person.

15 THE COURT: Who is all right. Certainly I  
16 wouldn't permit the substance of the conversation.

17 MR. SCHWARTZ: I understand that.

18 Q Who advised you?

19 A On March 8th, Mr. Cohen.

20 Q Did you make any notations in your files concerning  
21 the conversation with Mr. Cohen?

22 A On the outside of the file, on the jacket.

23 Q Did you make any other notation?

24 A In the form of a letter to Mr. Monell, my client,  
25 I did, yes. I would have to look through the file to see

8 GWMch

Shapiro-direct

1 if there is any other, but I doubt it.

2 Q Did there come a time that Mr. Monell was  
3 resentenced?  
4

5 A Yes.

6 Q Do you recall the date of that resentencing?

7 A I would like to look at the file, if I may.

8 (Pause)

9 A Yes, he was resentenced on March 26, 1971.

10 Q Were you present at the resentencing?

11 A Yes.

12 Q Do you recall who else was present?

13 A I recall that Abraham Isseks, county judge,  
14 presided, and that Abraham J. Weissman was the assistant  
15 district attorney present.

16 Q Do you recall the time of day?

17 A I think it was in the afternoon.

18 Q Early or late? Do you recall?

19 A No, I don't recall.

20 May I say, to be candid with you, I recall that  
21 because my recollection has been refreshed by looking at  
22 some notes in the court clerk's office -- from the court  
23 clerk's office.

24 Q So you recall now it was the afternoon?

25 A Yes.

9 GWhch

Shapiro-direct

Q Would you tell us, as best you recall, what happened on that date?

A The defendant was arraigned for sentence before Judge Isseks. Mr. Weissman made a statement recommending probation. I made the usual plea for leniency designed to obtain a county jail sentence for him, as a matter of fact, and the judge did give him probation.

Q And --

MR. PLATZMAN: And the judge what?

THE COURT: Did give him probation.

Q What, if anything else, happened on that date?

A I'm sorry. I can't recall any specific thing in connection with this case on that date.

Q Let me direct your attention to later in 1971. Before we reach that, do you know Mr. Doulin?

A Yes.

Q Do you see him in this courtroom?

A Yes.

Q Can you point him out, please?

A The gentleman in the red tie who sits at the second counsel table with Mr. Platzman.

THE COURT: I would suggest that you concede Mr. Shapiro knows him.

MR. PLATZMAN: Yes.

10 GWmch

Shapiro-direct

Q Following the Monell resentencing, did there come a time you saw Mr. Doulin?

A Yes.

Q Do you recall when that was in relation to the resentencing?

A I think about two months later, approximately.

Where did you see him?

A In the family court part of the Orange County Government Center, the room -- well, it's a large open space which was then occupied by one reception desk and some files, and which was traversed across by people going from the elevators to the courtrooms.

Q Did you have a conversation with him at that time?

A Yes.

Q Was anyone else present at the conversation?

A No.

Q Do you recall what time of day it was?

A I think it was in the morning.

Q Would you tell us, as best you recall, the substance of what you said to Mr. Doulin and what he said to you?

A Well, I think we both said hello or something like that first, and then Mr. Doulin said to me, in substance,

1 11 GWNch

Shapiro-direct

2 not precise words, that he didn't know what I might have  
3 heard about the Monell case, but he had just put in a  
4 good word, or done a favor, something like that, for the  
5 grandson of an old friend.

6 Q Was anything else said at that time?

7 A There was a little bit more conversation, but  
8 not much.

9 Q Did it relate to the Monell case, if you recall?

10 A Yes, I think so.

11 Q Do you recall what it was?

12 A My best recollection -- I am reluctant to give  
13 it under oath --

14 MR. PLATZMAN: I will object if this isn't his  
15 recollection to his knowledge.

16 THE COURT: Yes. It has to be something you are  
17 reasonably certain of.

18 THE WITNESS: I couldn't be certain of it. That  
19 was going to be the next thing I was going to say. I  
20 tried to indicate that.

21 THE COURT: Very well.

22 Q Was that the first time you saw Mr. Doulin in the  
23 courthouse?

24 A No.

25 Q How often had you seen him there in 1971?

Shapiro-direct

12 CWMch

1 A I couldn't say how often, but I had seen him on  
2 other occasions in the family court area.

3 Q Do you recall how often?

4 A No, I couldn't say.

5 MR. SCHWARTZ: May I have a moment, your HONOR?

6 THE COURT: Yes.

7 MR. SCHWARTZ: Your Honor, would this be a con-  
8 venient time to take the afternoon break?

9 THE COURT: I thought you were reaching the  
10 end of your examination. Would you like it now?

11 MR. SCHWARTZ: I would like to review certain  
12 documents. It would be helpful.

13 THE COURT: The jury has been sitting here for  
14 awhile, and I see some lawyers here for an order to show  
15 cause, so we will take some time.

16 Ladies and gentlemen, we will take a ten-minute  
17 break. This will be our afternoon recess. Please do not  
18 discuss the case among yourselves. Keep your minds open  
19 on all facets of the case until it has concluded with my  
20 charge.

21 The jury is excused for a ten-minute recess.

22 You may step down, Mr. Shapiro, and counsel are  
23 excluded also.

24 I will see those gentlemen on the order to show  
25

2 cause.

3 (Recess)

4 (In open court; jury present)

5 THE COURT: You may proceed, Mr. Schwartz.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. SHCWARTZ:

8 Q Mr. Shapiro, I am placing before you what has  
9 been marked Exhibit 2-A for identification and also a file  
10 folder which has been marked Exhibit 2 for identification.

11 Can you identify Exhibit 2 for identification?

12 A Exhibit 2 for identification is a -- yes, I can  
13 identify it.

14 Q How can you identify it, without telling us what  
15 it is?

16 A I can identify it by the tab, I can identify it  
17 by certain handwritten notes on the jacket, and I can  
18 identify it by its contents.

19 Q Do you recognize any of the handwriting on  
20 Exhibit 2?

21 A Yes. Some of the handwriting on the outside of  
22 the jacket is mine and there are notes inside the jacket  
23 which is mine also.

24 Q Just referring to the jacket, do you recognize  
25 the handwriting on that jacket as your handwriting?

2 A Yes.

3 Q Would you tell us what that jacket is?

4 A It's the cover of a felony file that is used --  
5 set up by the Orange County Legal Aid Society in the ordinary  
6 course of business of representing a defendant charged  
7 with a felony crime.

8 Q And let me show you or direct your attention to  
9 Exhibit 2-A, which is before you.

10 Without telling us what it is, do you recognize  
11 it?

12 A Yes.

13 Q How do you recognize it?

14 A I recognize it by the file number on it, by the  
15 content of it, by my name typed on it, by the initials  
16 of the person who typed it.

17 Q Without telling us the contents of Exhibit 2-A,  
18 tell us what it is.

19 A It is a letter sent by me to a client, former  
20 client, Richard Monell, on March 8, 1971, referring to his  
21 case.

22 Q Was Exhibit 2-A prepared by you in the course of  
23 your duty of representing Mr. Monell?

24 A Well, I didn't type it. It was prepared at my  
25 direction.

1 15 GWmch

Shapiro-direct

2 Q You caused it to be prepared?

3 A Yes, sir.

4 Q And is it part of the records and files of the  
5 Legal Aid office of Orange County in connection with the  
6 Monell case?

7 A Yes.

8 Q And is it the kind of record that is kept in  
9 the ordinary course of the business of the Legal Aid  
10 Society?

11 A It is.

12 Q Is it prepared at or about the time that the  
13 date is placed on the document?

14 A The date that is placed on the document is the  
15 date of typing, yes, sir.

16 Q Now, referring to Exhibit 2, which is the jacket,  
17 is the jacket something kept by the Orange County Legal Aid  
18 Society in the ordinary course of its business of  
19 representing clients?

20 A Yes.

21 (Continued on next page)

22

23

24

25

Q Is it the ordinary course of the Orange County Legal Aid Society office to keep such a file jacket?

A Yes.

Q The notations that are made on the file jacket, are they made at or about the time of the events which are described in those notations?

A On the exterior of the jacket?

Q Yes.

A Yes.

MR. SCHWARTZ: Your Honor, the government o-fers Exhibit 2, the jacket, and Exhibit 2-A.

THE COURT: You are offering the jacket, not the contents?

MR. SCHWARTZ: That is correct, your Honor.

THE COURT: Very well. Show it to counsel.

MR. PLATZMAN: I will object to this on the ground that it is incompetent and irrelevant, not material to the issues in this litigation.

THE COURT: You are not objecting to its authenticity?

MR. PLATZMAN: No, sir.

THE COURT: Very well. Overruled.

2-A and 2, just the jacket, received.

(Government's Exhibits 2 and 2-A for

1 gwjw

Shapiro - direct/cross

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2 identification received in evidence)

3 MR. SCHWARTZ: I have no further questions,  
4 your Honor.

5 THE COURT: You may cross examine, Mr.  
6 Platzman.

7 CROSS EXAMINATION

8 BY MR. PLATZMAN:

9 Q Mr. Shapiro, where do you reside?

10 A Town of Walkill, Orange County, New York.

11 Q How long have you lived there?

12 A Just over two years.

13 Q And before that?

14 A Town of Crawford, Thompson Ridge area, Orange  
15 County.

16 Q How long did you live?

17 A Lived there I think three years.

18 Q How about before that?

19 A Before that in the Village of Maybrook in Orange  
20 County, New York.

21 Q How long did you live there?

22 A I think thirteen years.

23 Q Are you a member of the Bar?

24 A Yes, sir.

25 Q And admitted to what state?

1 gwjw  
2 A Admitted in the State of New York.

3 Q How long?

4 A I was admitted in April of 19 -- April of  
5 1953; twenty-two, twenty-three years.

6 Q What was your legal education?

7 A I am a graduate of Brooklyn Law School. I  
8 have the bachelors of law degree.

9 Q That was in Brooklyn, New York?

10 A Yes, sir.

11 Q Did you attend any college or university  
12 before that?

13 A I attended Brooklyn College in Brooklyn, New  
14 York for two years before that.

15 Q Prior to that was high school?

16 A Prior to that was high school, yes.

17 Q After high school you went to college for  
18 two years and then to law school?

19 A Yes.

20 Q You didn't attain a degree in college?

21 A No, I took a law student's qualifying  
22 certificate.

23 Q After getting out of law school and being  
24 admitted in April of 1933 --

25 THE COURT: '53.

1 gwjw

2 Q I mean '53. I'm sorry. I can't make you  
3 older than you are.

4 -- did you start the practice of law?

5 A No, sir.

6 Q Where did you go?

7 A Well, immediately after graduation, immediately  
8 after I took the Bar Exam I got a job as a senior law  
9 clear with the New York State Labor Department.

10 Q Was that in New York City or elsewhere?

11 A That was in New York City, 342 Madison Avenue.

12 Q How long did you work for the Labor Department?

13 A About two years.

14 Q Did you have to take an examination for that?

15 A Yes, sir.

16 Q Then after the two years you went elsewhere?

17 A After a little bit less than two years I went  
18 into private practice, both by myself and in association  
19 with some other people, two offices.

20 Q Where was that?

21 A The private practice was in Brooklyn, the  
22 Brownsville area. The association was in Brooklyn, in  
23 the Bedford-Stuyvesant area.

24 Q Was there a partnership you say that you  
25 entered into?

Shapiro - cross

gwjw

A No, sir, it was a loose association. I did some work for some other lawyers.

Q And you maintained facilities there and you were able to practice, have your own practice?

A There and I had my own office in the neighborhood where I lived; yes, sir.

Q How long did that relationship last?

A The private practice in Brooklyn lasted from I think April of 1954 until June of 1957 when I moved out of the city. The other arrangement lasted probably about a year.

Q Then you moved into the city in '57?

A No, sir, out of the city.

THE COURT: Out of the city.

Q Out of the city?

A Yes.

Q Where did you go?

A I moved to Maybrook and I commenced -- in Orange County and I commenced practice in Orange County.

Q Did you maintain an office in Maybrook?

A In Maybrook; yes, sir.

Q Is that where you were living?

A Yes, sir.

Q Was it private practice or were you in partnership

1 with someone?

2 A No, it was private practice.

3 Q Was that office separate from your home or  
4 part of it?

5 A The office in Maybrook was in a -- well, it  
6 was part of my home. The office in Maybrook was part of  
7 my own. There was another office in Newburgh which I  
8 opened in 1960 which was separate from my home.

9 Q In 1960 you opened up an office in Newburgh?

10 A Yes, sir.

11 Q Were you alone or with someone?

12 A I was alone except for a short period of time  
13 when an attorney named Fred Harding came into association  
14 with me. I handled some of his cases.

15 Q Who was that? I'm sorry.

16 A Frederick Harding.

17 Q Were there any associates in the office or  
18 did you have the office by yourself?

19 A Myself, with the one exception I mentioned.

20 Q All right.

21 How long did that last?

22 A Until January of '67 when I became chief attorney  
23 of the Legal Aid Society.

24 Q During that period when you were in private  
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gwjw

Shapiro - cross

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practice, what kind of matters did you handle?

A I had a general practice. I handled criminal work, I handled tort litigation, civil work, including closings; just about everything.

Q Real estate?

A Yes, real estate.

Q Accident cases?

A Yes. At one time I was an attorney for one of the towns in the county. All sorts of things, general practice with some emphasis on criminal work.

Q Was that defense, the criminal work?

A Defense, yes.

Q There came a time when you became associated with the Legal Aid Society?

A Yes.

Q That was what year?

A That was January 1967.

Q Did you join a political party during any of this period while you were a resident of Maybrook?

A Yes.

Q What political party was that?

A When I was a resident of Maybrook? I was a member of the Republican party.

Q Then did there come a time when you became a

member of the Democratic party?

A Yes.

Q When was that?

A That was I think in 1970, probably about September when I -- when I moved to the Town of Crawford and I had to register. I also enrolled in the Democratic party.

Q From the time that you came to Maybrook after you had left Brooklyn until the time that you registered as a Democrat, you were continuously during that period a member of the Republican party?

A I maintained my enrollment as a Republican, yes.

Q Was there a local Republican Club that you attended meetings?

A No.

Q You just had registered as a Republican?

A No, I was active at one time in a rural citizen's committee for Rockefeller and Keating, but that was my only activity as a Republican.

Q Do you remember what year that was?

A It was whatever year Governor, now Vice-President Rockefeller was elected Governor for the first time.

THE COURT: 1958.

THE WITNESS: Yes, sir. That sounds right.

Thank you.

Q You were active in that campaign?

A Yes, I was active in that campaign.

Q Then you became a member of the  
Democratic party in 1970?

A I think it was '70, yes.

Q Did you join a club?

A No.

Q Registered as a Democrat?

A Yes.

Q When for the first time did you engage in any  
political activity as a Democrat?

A The first time I engaged in political activity  
as a Democrat I guess would be three and a half years  
ago when I accepted Democratic nomination to run for  
Surrogate Judge.

Q At the time you accepted that nomination had  
you been a member of the local Democratic party?

A I was enrolled as a Democrat, but I have never  
been a member of any club. I have never been a member of  
any committee except I have attended meetings of the  
Lawyer's Committee.

Q Of the Democratic party?

A Of the Democratic party.

1 gwjw

2 Q In Orange County?

3 A Yes, sir.

4 Q Let's get back to this Monell case and your  
5 duties as a member of the Legal Aid Society.

6 Did there come a time when you became chief  
7 attorney?

8 A I started as chief attorney.

9 Q How many other attorneys were there in the  
10 Legal Aid Society when you first joined it?

11 A When I first joined in '67 there were four.

12 Q Three others and yourself; is that it?

13 A No, four others and myself.

14 Q Four others?

15 A Yes.

16 Q Did they handle the same kind of cases that you  
17 handled?

18 A No, sir.

19 Q What kind of cases did you handle, what kind  
20 of cases did they handle?

21 A I handled felony cases mostly. The other  
22 lawyers handled the Family Courts, including ever kind of  
23 case that came up in Family Court which we would have,  
24 including juvenile delinquency, persons in need of super-  
25 vision, support, custody, paternity. They also covered

the local courts, that is to say the town courts, the village courts and the city courts. On occasion they would handle a felony case. On occasion I would go into one of the other courts. That is the basic division of labor.

Q Generally you handled the more serious cases, the felony cases?

A Yes.

Q There were also periods when you handled Family Court matters as well?

A From time to time I would go into the Family Court and other places as well, yes.

Q Yes. How many cases did you handle a year in your office?

A In 1967?

Q Yes.

A I think in 1967 we probably had about 130 or 140 felony cases, probably about 160 or 180 -- this is an estimate, Mr. Platzman, I really am not certain at this point -- misdemeanor cases, perhaps more. Probably a couple of hundred civil cases of all kinds, including the Family Court matters.

Q Was it your duty to supervise the activities of these other four lawyers as well as performing the functions

1                   that you were obligated to perform as an attorney?

2                   A       Right.

3                   Q       Do I gather that from time to time you would  
4                   be called upon to review with them their problems or their  
5                   decisions that they might have to make?  
6

7                   A       Yes.

8                   Q       How about in 1970, can you tell me what the  
9                   case load was in the Legal Aid Society during the year  
10                  of 1970?

11                  A       In 1970 I can't tell you precisely, but it is  
12                  my impression that the case load had doubled by '70 from  
13                  '67.

14                  Q       There was a gradual and continual increase in  
15                  the number of cases, right?

16                  A       Yes.

17                  Q       While some cases were being disposed of, there  
18                  were new ones continually coming in?

19                  A       Yes.

20                  Q       And the ones coming in were coming in a little  
21                  bit faster than the ones being disposed of?

22                  A       That seems to have been the history; yes, sir.

23                  Q       How many lawyers did you have in 1970?

24                  A       I cannot be precise, but in 1970 I think  
25                  there were six other lawyers on the staff, and I think

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by then also we may have had an appeals man making seven.  
I'm not sure, Mr. Platzman. It is my recollection as I  
sit here.

Q In 1971 did it continue to increase?

A Yes.

Q Has that been the pattern up until today?

A That has been the pattern up until the time I  
left the office in August, and I think it still is the  
pattern.

Q When you left the office, do you know approxi-  
mately what the felony case load was?

A Felony case load looked like about 800 cases  
for the year at the time I left the office.

Q How about the remaining cases, what was approxi-  
mately the total?

A Misdemeanor cases looked like they would hit  
2,000, I guess, 1,800 anyhow. Juvenile delinquency and  
related law guardian work, as we called it there, looked  
like about 700. Civil cases probably would have been  
about 200 a year, remaining steady. Other Family Court  
matters, probably about 200 a year. People coming in off  
the street for consultation and advice, perhaps about  
800.

Q Outside of the 800 coming in for advice, you

would have had somewhere approximately about 4,000?

A That seems about right, yes.

Q From your experience as a lawyer that is a tremendous law office?

A At that point, yes. I had ten lawyers at that point.

Q Yes.

A I'm sorry, nine and myself making ten.

Q Nine plus yourself?

A Yes.

Q Do you recall when you were assigned to the Monell case?

A I think I saw in the file because that it was October 18, 1968.

Q Most of the matter that you have testified to today on direct examination in answer to Mr. Schwartz' questions involved refreshing of your recollection from the file itself, isn't that true?

A Yes, sir.

Q It would be physically impossible for you to retain what is in the file?

A Yes.

Q Is it also true in this particular case your memory was refreshed by looking in the file before

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2 coming to court?

3 A I haven't looked at the file today. I have  
4 looked at it on other occasions before coming to court.

5 Q You looked at it at one time when you went  
6 down to see the United States Attorney in New York?

7 A I looked at the file as recently as Friday.  
8 I have looked at it on other occasions, yes.

9 Q Was there also an occasion when you came  
10 down and had a meeting or a conference with the United  
11 States Attorney?

12 A There was one on Friday. There was a prior  
13 occasion also, yes.

14 Q The prior occasion was approximately when?

15 A About a month ago. I can't be any clearer  
16 than that.

17 Q Was there one in March of this year?

18 A March of this year I appeared before a grand  
19 jury and also had a conference with the United States  
20 Attorney.

21 Q And you also had a conference that same day  
22 that you appeared before the grand jury?

23 A Yes.

24 Q You also went to see the United States Attorney?

25 A Yes.

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Q Was there another one in May of this year?

A Yes.

Q As I recall, you testified on direct examination that there came a time when Richard Monell said to you that he wanted to change his plea from not guilty to guilty on some other offense.

A Yes. He communicated it to me in some way. I don't recall the words.

Q Was there at any time during the time you handled this file any communication between you and the district attorney's office concerning what kind of a plea would be accepted by them?

A Yes.

Q This is part of what we would all commonly call plea bargaining; isn't that right?

A I used the term negotiation.

Q That sounds better.

A Yes.

Q But essentially it is an arraignment whereby a defendant pleads to something a little bit lesser than what he is accused of and there is no trial.

A Yes.

Q And frequently, as occurred in this case, the district attorney would set forth what kind of a plea he

1 would be willing to accept; is that true?

2 A That was part of the negotiations, sure.

3 Q Yes.

4 THE COURT: Do you recall who made the offer  
5 in this case?

6 THE WITNESS: No, sir. It might be in the  
7 file, but I don't recall.

8 Q Do you recall about when that offer was made?

9 A For the first time?

10 Q Yes, for the first time.

11 A No, I don't.

12 Q Did you from time to time meet with both  
13 the district attorney as well as various assistant district  
14 attorney's during the time that this case was pending?

15 A I must have, sure.

16 Q The incident which gave rise to the indict-  
17 ment was in 1968; is that right?

18 A I think so.

19 Q The plea of not guilty was in 1968?

20 A I don't know. I wasn't there, Mr. Platzman  
21 I wasn't his attorney at the time. I think that's  
22 correct.

23 Q Who was the attorney in 1968?

24 A I think it was Max Levinson from the office  
25

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2 of Finkelstein, Kaplan and Levin, as it was called at  
3 that time.

4 Q Did you replace Mr. Levinson shortly after  
5 the proceedings were commenced?

6 A I couldn't tell you whether it was shortly,  
7 but I know I was assigned in his place. The file indicated  
8 that to me when I was looking at it.

9 Q Then you continued as the attorney up until  
10 the time of change of plea and the two sentences?

11 A Yes.

12 Q During this entire period you had occasion  
13 to speak to the various assistant DA's and the DA  
14 himself, right?

15 MR. SCHWARTZ: Objection to "this period".

16 THE COURT: Asked and answered as I heard  
17 it before.

18 That is the objection?

19 MR. SCHWARTZ: Yes, your Honor.

20 MR. PLATZMAN: I don't recall his answering  
21 that.

22 THE COURT: He said yes.

23 MR. PLATZMAN: All right.

24 Q Do you recall whether you ever had occasion  
25 to speak to him about the Monell case?

1           A       I don't recall specific incidents, but I  
2  
3 must have talked to them more than once about the Monell  
4 case, someone in that office.

5           Q       Do you know who was the district attorney  
6 at that time?

7           A       Well, let's see. Judge Ingrassia was a  
8 district attorney in 1968. Thereafter he became a judge  
9 and Jerome Cohen was acting district attorney during part  
10 of that time.

11           THE COURT:   The plea was entered on December  
12 14, 1970.

13                   Who was the district attorney at that time?

14           THE WITNESS:   I'm not positive, but I think  
15 about that time Cohen was acting district attorney. I'm  
16 not certain.

17           THE COURT:   Then, as I recall it, the  
18 incident first took place on March 5, 1971.

19                   Who was the district attorney then?

20           THE WITNESS:   I'm certain Jerome Cohen was  
21 acting district attorney at that time.

22           THE COURT:   On March 26th, the resentence?

23           THE WITNESS:   The same thing. He was still  
24 acting district attorney.

25           Q       On March 5th do you recall what took place?

1 A I recall that Mr. Monell was sentenced.

2 Q Do you have any independent recollection of  
3 what transpired that day or is it based on what is in the  
4 file?  
5

6 A No, I have an independent recollection.

7 Q Does that independent recollection extend  
8 to what took place in the courtroom?

9 A It extends to the sentence. I recall Monell  
10 was sentenced to two and a half years and that under the  
11 law at that time that was not an appropriate sentence.

12 Q You knew that at the time that the sentence  
13 was imposed that it was improper; is that right?

14 A Yes, sir.

15 Q Did you tell the Judge?

16 A No, sir, I told the district attorney.

17 Q When the Judge pronounced the sentence of two  
18 and a half years, an indefinite term up to two and a half  
19 years, did you say anything at that time in open court  
20 on the record?

21 A I think not.

22 Q When did you tell the district attorney?

23 A I think it was immediately afterwards, that  
24 the sentence was improper, that it was a new law case and  
25 he had been given an old law sentence.

1                   Q       Mr. Monell was still in custody at that time;  
2  
3       was he not?

4                   A       He would have been in custody at that time.

5                   Q       And the district attorney was still there?

6                   A       Well, I don't know precisely where Mr.  
7       Monell was physically, whether he was in the courtroom  
8       or the cells behind the courtroom. The D.A. and I  
9       were still in the courtroom when I told him that.

10                  Q       About how long after the sentencing did this  
11       conversation with Mr. Cohen take place?

12                  A       I couldn't say. It might have been immediately.  
13       There might have been other business or other cases  
14       intervening. I can't recall.

15                  Q       Do you remember whether there were other  
16       cases at that time?

17                  A       No, I don't.

18                  Q       Did you ask Mr. Cohen to have the resentencing  
19       take place right away?

20                  A       Yes. That I think was what I had discussed  
21       with him.

22                  Q       What did he say?

23                  A       My best recollection is that he went back  
24       in to see the judge, and I think the court clerk had  
25       talked to them about it. Nothing came of it.

Q Did you go back to your office and prepare or intend to prepare or make any application to the Court to vacate this void sentence?

A You mean written applications?

Q Yes.

A No.

Q Did you ask for a hearing that same day to have the sentence reviewed and set aside?

A No.

Q When the case was called was Mr. Monell there?

A When the case was called prior to sentence?

Q For sentencing, yes.

A He was present in the courtroom.

Q Where was he in the courtroom; do you know?

A At the time he was sentenced he would have been standing right next to me. I don't know where he was prior to that.

Q After some interchange, some colloquy between the Court and counsel, Judge Isseks pronounced the sentence; is that right?

A After I made a statement to the Court he pronounced sentence, yes.

THE COURT: You made a statement on Mr. Monell's behalf?

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THE WITNESS: Yes, sir, the usual presentence sentence made by defense counsel.

Q Then the Court said what?

A The Court sentenced him to an indefinite sentence with a maximum of two and a half years.

Q Right after that sentence did Richard Monell say anything?

A He might have, but I don't recall it.

Q Did he say to you something went wrong?

A He might have. I don't recall.

Q Then you went back to your office?

A Eventually I went back to my office, yes.

Q After speaking with Mr. Cohen?

A Yes, and whatever other business there might have been.

Q You may have had some other business in the building?

A Right. My office is in the building. I would have gone upstairs to my office. My office at that time was in the building.

Q At that time was it in a new courthouse?

A Yes, sir.

Q After you got back to your office you say you received a telephone call from a woman?

1 A Yes, sir. Not immediately afterwards, late  
2 in the afternoon. The sentencing was in the morning.

3 Q Had you ever spoken to that woman before, to  
4 the best of your recollection?

5 A I don't think so.

6 Q Did you ever speak to her since then?

7 A I just saw the lady that I think is the person  
8 who called me here in the courthouse, but I don't think  
9 I have spoken to her, no.

10 Q At the time that you heard this voice over  
11 the phone, did you recognize this as the voice of Mrs.  
12 Grant?

13 A No, sir.

14 Q Had you ever spoken to her by telephone  
15 before?

16 A If I had I don't recall it at this time.

17 Q So that other than what she said to you or  
18 this individual said to you, you have no way of identify-  
19 ing her voice as that of the voice of Mrs. Grant?

20 A Right.

21 Q What did she tell you?

22 A She told me in substance that she -- she  
23 indicated to me in substance that she was displeased  
24 with the sentence that her grandson had received, that  
25

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2 something else had been "bought and paid for."

3 When I asked her what she was talking about  
4 or indicated I didn't know what she was talking about,  
5 she referred to the undertaker. I think in along there  
6 she said something about him being in Florida.

7 Q When she said to you that something had been  
8 bought and paid for -- were those the words she used?

9 A Those were her words, "bought and paid for".

10 Q Do you know what she had reference to?

11 A I think she had reference to a sentence, a  
12 lenient sentence of some kind.

13 Q That was the fair implication that you as a  
14 lawyer would have received from that sort of a statement?

15 A That's what she was calling about.

16 Q And that she was telling you that she had  
17 obtained someone to fix the sentence; isn't that the  
18 conclusion you drew from her statements?

19 A That's a conclusion that -- yes, that's one  
20 of the possible conclusions I drew.

21 Q Was it the conclusion that you thought was  
22 probably what she was talking about when she made that  
23 statement to you?

24 A I don't know exactly how to say that. I  
25 thought it was a possibility that she was talking about

1 an actual cash payment, but I wasn't certain.

2 Q Did you consider at that time that there was  
3 another possibility of what she meant?  
4

5 A Yes.

6 Q What was that?

7 A I considered at that time that she might be  
8 referring to some other sort of influence or service or  
9 something else. She wasn't precise about saying I bought  
10 and paid for it with so much money or anything like that.

11 I couldn't tell precisely what she meant by  
12 those words, although I thought one of the fair implica-  
13 tions was that money had changed hands.

14 Q Did you ask her when she said that it had  
15 been bought and paid for what she meant by that state-  
16 ment?

17 A In substance I did, yes.

18 Q Do you recall, if you can, more specifically  
19 what the substance of your request was?

20 A I said to her, I think, "I don't understand  
21 what you are talking about" or "I don't know what you are  
22 talking about".

23 The answer was -- do you want the answer?

24 Q Yes.

25 A The answer was, "You know what I'm talking

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about, the undertaker."

Q Did you ask her what she meant by that, the undertaker?

A No. It wasn't exactly what you would call a conversation or a coherent colloquy. It was a very agitated, very excited woman on the other end of the phone.

1 GWjw 1

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2 Q Did she tell you what she wanted you to do  
3 about it?

4 A No.

5 Q So far as you know, the conversation was  
6 all a matter of informing you what she had done, bought  
7 and paid for something, is that right?

8 A Yes, telling me that something had gone  
9 wrong or hadn't worked out the way she expected it to.

10 Q After receiving this telephone call, did you  
11 do anything about it?

12 A Made a note.

13 Q Other than what you have testified to, did  
14 you contact anyone at the district attorney's office?

15 A About her phone call?

16 Q Yes.

17 A I don't think so.

18 Q Did you go to speak to Mr. Cohen and tell  
19 him that somebody had called you and said that this man's  
20 sentence, Richard Monell's, had been bought and paid for  
21 and the sentence was improper?

22 A I am sure I told him the sentence was improper  
23 on legal basis.

24 Q No, I am talking about the fact it was  
25 improper from the point of view of the caller, that it

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1 GWJW

2 was a sentence that she didn't buy and that she had  
3 bought and paid for another sentence?

4 A I don't think I said anything like that to  
5 Mr. Cohen.

6 Q Did you discuss the subject with him at all?

7 A About the telephone call?

8 Q Yes.

9 A I don't think I did, no.

10 Q Did you discuss it with anyone else in the  
11 district attorney's office?

12 A No.

13 Q Did you go to see Judge Isseks about it?

14 A No.

15 Q Did you go to see the other county court  
16 judge? Who was the other county court judge at that  
17 time?

18 A Judge Ingrassia.

19 Q And did you go to see Judge Ingrassia at  
20 that time?

21 A No.

22 Q Did you discuss it with anybody after that  
23 telephone conversation?

24 A I can't be sure. I might have mentioned it  
25 to some of the people in my own office, at that time the

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2 Legal Aid Society. I might. I am not sure I did.

3 THE COURT: Do you have any clear recollection?

4 THE WITNESS: No, sir, not at all.

5 Q Did you have occasion to speak with this  
6 same individual again concerning this bought and paid  
7 for sentence?

8 A The lady who called?

9 Q Yes.

10 A No.

11 Q Did she ever call you back?

12 A No.

13 Q At this time Richard Monell had returned to  
14 jail, is that right?15 A Richard Monell was in the Orange County Jail,  
16 yes.

17 Q And eventually he was sent to Sing Sing?

18 A Several weeks later, I think, yes.

19 Q And during this entire period you were aware,  
20 were you not, that this was an illegal sentence?21 A I was aware it was an illegal sentence because  
22 it was an old law sentence rather than a new law sentence,  
23 yes.24 Q Was there anything that you did in between  
25 March 5th and March 16th -- I withdraw the question.

Do you know the date when Mr. Richard Monell was transferred to Sing Sing?

A No, not offhand I don't.

Q Well, would you be able to refresh your memory by looking at your file as to when he went to Sing Sing?

A No, that wouldn't be in my file.

THE COURT: Can it not be taken as a stipulated fact the date on which he was transferred to Sing Sing and then rejected?

MR. SCHWARTZ: March 16, 1971.

MR. PLATZMAN: Thank you.

Q Does it refresh your memory if we tell you that the actual date of transfer was March 16th?

A I don't know that I ever had that exact knowledge, but I will accept it as you give it to me.

Q But it sounds about right?

A It sounds logical.

Q Between March 5th and March 16th, did you take any step, either by way of oral application or written application, to vacate or set aside that sentence?

A Yes.

Q What did you do?

1 GWJW Shapiro - cross 793  
2 A I tried to have the case scheduled for  
3 resentencing.

4 Q How did you do that?

5 A By talking to the people in the DA's office  
6 who make up the calendar. They were also aware by then  
7 that it was an improper sentence.

8 Q And who did you talk with?

9 A I specifically recall talking to Jerome  
10 S. Cohen, acting district attorney.

11 Q Other than the first day --

12 A I specifically recall speaking to him on  
13 another occasion.

14 Q How long after the first day of the sentencing  
15 did you speak to him again?

16 A I tried to get the resentencing on for March  
17 8th, and I spoke to him both before and on that occasion.

18 Q And what did he tell you?

19 A He told me Monell was not going to be resentenced  
20 and he was not going to be handling the case any more,  
21 that Mr. Weissman would be handling the case from then on.

22 Q Did Mr. Cohen acknowledge to you as a lawyer  
23 this was a void sentence?

24 A I think he did, yes.

25 Q Did you then make a written application to

1 vacate and set aside the sentence on the ground that  
2 it was void?  
3

4 A No.

5 Q And you knew as a lawyer that it was void?

6 A Yes, but it was not contested. The district  
7 attorney was not contesting the invalidity of the sentence  
8 so I didn't have to apply to a Court.

9 Q But you were contesting it, didn't you?

10 ✓ A The district attorney agreed with me the  
11 sentence was invalid. It was only a matter of rescheduling  
12 it.

13 Q If it wasn't rescheduled you could have  
14 resorted to a written application, what we refer to as  
15 a motion, for that purpose?

16 A It's possible. I didn't have occasion to  
17 do that.

18 Q If you made a motion, it would have to be  
19 made on notice, wouldn't it?

20 THE WITNESS: It would have taken longer  
21 that way, yes, sir.

22 THE COURT: You do not know that, but it  
23 might take longer.

24 THE WITNESS: I would think a written motion  
25 on notice would probably have had to come on, be decided,

2 decision come through and the rescheduled.

3 Q The motion could have been made on five or  
4 eight days notice, could it not?

5 A I was trying to get that case rescheduled just  
6 about every other day, as I recall it.

7 Q You could have brought it on by written  
8 notice of motion within five to eight days.

9 A I could have brought on the question, not the  
10 resentencing.

11 Q The application to vacate the sentence?

12 A Again, there was no contest about it. The  
13 district attorney agreed that it was invalid.

14 Q In the practice of law many times you make  
15 motion where the other side doesn't contest it, isn't  
16 that true?

17 A Occasionally.

18 Q You have had that experience yourself over  
19 the years?

20 A When the other side is not contesting, I  
21 usually enter an order without a motion.

22 THE COURT: Or you get a stipulation and  
23 have it so ordered.

24 Q Now, then there came a time when Mr. Monell,  
25 after going to Sing Sing, was returned and the case was

rescheduled for resentencing, isn't that right?

A It was rescheduled several times.

Q And it was eventually reached on March 26th?

A Yes.

Q So between the first sentence and the time of resentencing there was a three week period?

A Yes.

Q And during that time Richard Monell was in jail?

A In the county jail, yes, sir.

Q Now, on the second sentencing, we know that there was probation ordered, is that right?

A Yes, sir.

Q Who ordered the probation?

A Are you referring to a probation report or a sentence of probation?

Q Sentence.

A The sentence was Abraham Isseks, County Judge.

Q He was the judge?

A Yes, sir.

THE COURT: The same judge that presided on September 5th?

THE WITNESS: March 5th, yes.

THE COURT: March 5th.

1 GWJW  
2 Q And no one else other than the judge could  
3 make that determination?

4 A The judge sentences, yes.

5 Q Now, after that date you say on one occasion  
6 you had occasion to run into Mr. Doulin?

7 A Yes.

8 Q Did you see Mr. Doulin before that from time  
9 to time on various occasions?

10 A I had seen Mr. Doulin from time to time  
11 over the years, yes.

12 Q And can you tell us where this conversation  
13 took place?

14 A Yes. In the Family Court area of the Orange  
15 County government center in what was then an open area  
16 with a reception desk and some file cabinets.

17 Q And where was Mr. Doulin with respect to  
18 the clerk's desk?

19 A He would have been -- I was coming from the  
20 courtroom side, he was coming from what appears to me  
21 to have been the elevator or door side, and he would  
22 have been more or less behind the receptionist's desk.

23 Q Were you both crossing each other's paths?

24 A Yes, we were going in opposite directions.

25 Q He was going in one direction and you were

1  
2 going in the opposite direction?

3 A Yes.

4 Q And as you approached each other he greeted  
5 you?

6 A He greeted me or I greeted him, good morning,  
7 or something or other.

8 Q You greeted each other?

9 A Yes.

10 Q Then did you stop for a moment?

11 A Yes.

12 Q How long, approximately?

13 A A minute perhaps. He addressed me and I  
14 stopped.

15 Q And then what was said other than hello and  
16 how are you by either you or Mr. Doulin?

17 A In substance, he said that he didn't know  
18 what I might have heard about the Monell case, that all  
19 that had happened is he put in a good word or some  
20 expression like that for the grandson of an old friend.

21 Q Had you asked him anything about the Monell  
22 case before he told you this?

23 A No, nothing.

24 Q And you say that without any prior discussion  
25 Mr. Monell told you that he had put in a good word on

the Monell case?

A Mr. Doulin told me.

Q I am sorry. Mr. Doulin.

A Yes. spontaneously.

Q Spontaneously. Did you ask him what he meant by that?

A No.

Q Did you tell him somebody had told you that his sentence had been bought and paid for prior to March 5th?

A No.

Q Mr. Shapiro, you are a member of the Democratic party, is that right?

A Yes.

Q You ran for district attorney on the Democratic party ticket?

A Yes.

Q There was a time also when you ran for Surrogate of Orange County?

A Yes.

Q And on what ticket was that?

A Also Democratic.

Q And who ran against you at that time?

A Irving Green.

1  
2 Q And was Irving Green selected by the Republican  
3 County Committee?

4 A He was nominated by the Republican party.  
5 I don't know the procedure.

6 Q You are familiar with the procedure in the  
7 Democratic party, aren't you?

8 A I have some idea of some of the procedures  
9 in the Democratic party. It varies there also.

10 Q When you were nominated to run for Surrogate  
11 was that nomination by the Democratic Committee of Orange  
12 County?

13 A Yes. I think it occurred at a convention,  
14 a nominating convention.

15 Q And prior to that convention had you been  
16 selected by the executive committee or nominating  
17 committee, a group of some sort?

18 A Yes, I think somebody -- I talked to either  
19 the lawyer's committee or the executive committee or  
20 both about my willingness to run for Surrogate, right.

21 Q Well, was there a statement more than you  
22 were willing or did you indicate to some of these people  
23 you would like to run for Surrogate?

24 A I think I told them I wanted to run.

25 Q And in doing so and getting that nomination,

1 you spoke to many members of the committee, did you not?

2 A No.

3 Q How many people did you speak to, do you  
4 know?

5 A I think I probably spoke to the county  
6 chairman and a few other people, personal friends, that's  
7 all.

8 Q And this would have been the county chairman  
9 of the Democratic party?

10 A Democratic party, yes.

11 Q And then Irving Green was nominated by the  
12 Republican county committee?

13 A I don't know if he was nominated before me  
14 or after me, but he was nominated by the Republicans.

15 Q And he ran against you?

16 A Yes.

17 Q And Mr. Doulin backed Mr. Green, did he not?

18 A I think so, yes.

19 Q And you were defeated?

20 A Yes.

21 THE COURT: When was that election?

22 THE WITNESS: Three years ago, sir.

23 THE COURT: 1972?

24 THE WITNESS: Yes, during the presidential  
25

election year.

Q And did there come a time when you also ran for district attorney of Orange County?

A Last week.

Q And you were opposed by a Republican?

A Yes.

Q And were you defeated?

A Yes.

Q But prior to running for district attorney you were and still are the acting district attorney?

A Not acting. I am the district attorney.

Q You were the district attorney.

A Right.

Q And still are?

A Yes.

Q When were you appointed?

A I think it was August 19th of 1975.

Q And prior to that appointment had you ever prosecuted a criminal action before?

A Prosecuted a criminal action?

Q Yes.

A Not a criminal action, no.

Q And had you ever worked in the district attorney's office before?

1 GWJW  
2 A In the sense of having been a member of the  
3 district attorney's staff?

4 Q Yes.

5 A Not a member of the Orange County district  
6 attorney's staff.

7 Q Or any other county. Did you ever work on  
8 the staff of any other county district attorney's office?

9 A No.

10 Q Or attorney general's office?

11 A Yes.

12 Q In what department were you involved?

13 A I was appointed on eight different occasions,  
14 special deputy attorney general in the election frauds  
15 bureau. That is a semi-honorary appointment.

16 Q This is a thing that is done with many  
17 lawyers throughout the state to watch elections, is that  
18 right?

19 A To watch elections and in my case once or  
20 twice to watch primaries and the happenings between  
21 primaries and elections.

22 Q What I am getting at, you weren't on the  
23 staff of the attorney general's staff employed by them  
24 prosecuting either civil or criminal matters?

25 A No, sir.

1 GWJW  
2 Q And you never worked for the United States  
3 attorney's office?

4 A No, sir.

5 Q And who appointed you -- Governor Carey?

6 A Yes, sir.

7 Q Do you know Governor Carey?

8 A No, sir.

9 Q Did you ever meet him?

10 A I met him the day I was sworn in.

11 Q You hadn't met him before that date?

12 A No, sir.

13 Q Was your name suggested to Governor Carey  
14 by the Democratic committee of Orange County for this  
15 post?

16 A That is my understanding, yes.

17 Q Mr. Shapiro, isn't that the way appointments  
18 of this type are normally made?

19 A I think so.

20 Q Just one other matter, a few questions,  
21 and I think we can conclude.

22 Mr. Shapiro, when you heard this woman on  
23 the telephone tell you that she had bought and paid for  
24 what you considered to be a sentence, did you consider  
25 it your duty to report this to the authorities?

1 GWJW

Shapiro - cross

805

2 A If I could have figured out some authorities  
3 to report it to, I might have

4 Q Wouldn't that have been something for you  
5 to call to the attention of the district attorney's  
6 office?

7 A Not where I thought the district attorney's  
8 office was involved.

9 Q Did you reach the conclusion that any of  
10 the district attorneys that you knew were involved in  
11 this purchase?

12 A On March 5th when the lady called me, I  
13 didn't reach any conclusion. I made a note and kept an  
14 open mind. After the sentencing on March 26th, I  
15 thought I knew what she had been talking about.

16 Q Well, did you report it then to the  
17 district attorney's office?

18 A Mr. Weissman, no.

19 Q I beg your pardon?

20 A Are you asking me if I reported it to Mr.  
21 Weissman? The answer is no.

22 Q Did you report it to anybody else in the  
23 district attorney's office?

24 A No.

25 Q Did you report it to the United States

1 attorney's office?

2 A Not then, no.

3 Q Did you report it on March 5th to the United  
4 States attorney's office?

5 A No.

6 Q Or at any time between March 5th and March  
7 26th?

8 A No.

9 Q Did you ever report it to anyone in the  
10 attorney general's office?

11 A No.

12 Q Didn't you consider it important that that  
13 be disclosed at that time, Mr. Shapiro?

14 A Again, it was a question of disclose to who.

15 Q Mr. Shapiro, in your present campaign in  
16 running against Mr. Ritter, didn't you criticize Mr.  
17 Ritter that he didn't disclose that he knew about a  
18 statement that an assistant district attorney had made?

19 A Not an assistant district attorney, no.

20 Q Or a district attorney?

21 A Yes.

22 Q And Mr. Ritter had, you claimed, had knowledge  
23 of a certain set of facts and his failure to disclose  
24 it was attacked by you in the press?  
25

2 A That's correct.

3 Q And is it a fact that you did attack Mr.  
4 Ritter for that?

5 A Yes.

6 MR. PLATZMAN: No other questions.

7 REDIRECT EXAMINATION

8 BY MR. SCHWARTZ:

9 Q You were just asked, Mr. Shapiro, whether  
10 you ever reported to anyone your conclusions after the  
11 March 26th sentencing or resentencing.

12 Did you ever report it to anyone?

13 A Yes.

14 Q To whom?

15 A I reported it to an FBI agent about February,  
16 1972, when I found that the Strike Force was interested  
17 in the general situation involving the City of Newburgh  
18 and politicians and gamblers and police there. I reported  
19 it as soon as I found it here.

20 THE COURT: You reported it as soon as you  
21 found it here is not responsive. The jury will disregard  
22 that portion of the witness' answer.

23 Q Do you also recall being asked by Mr.  
24 Platzman whether after the Monell sentencing you made  
25 any motions with respect to that sentencing, the first

one?

A I recall the question, yes.

Q Let me show you Government Exhibit 2-C.

Do you recall what efforts you did make to obtain a resentencing, if you made any?

A I had the case rescheduled for resentencing on numerous occasions, possibly five.

Q Looking at Government Exhibit 2-C, is that something you can identify?

A Yes.

Q What is that?

A It's a letter prepared at my direction sent to -- it says Mrs. Richard Monell, P.O. Box 495, Route 1, High Falls, New York.

Q Was that letter prepared by you in the course of your duties for the Orange County Legal Aid Society?

A At my direction. I didn't type it.

Q And is it the kind of record or correspondence that you keep in the ordinary course of performing your duties?

A Yes.

Q And was it prepared at or about the time of the date on the letter?

A Yes.

MR. SCHWARTZ: The government offers Exhibit 2-C.

MR. PLATZMAN: I object to it as incompetent and immaterial and not relevant to any issue.

THE COURT: Let me see it. Do you object to its authenticity?

MR. PLATZMAN: I don't object to that.

(Document handed to Court)

THE COURT: Overruled. Received.

(Government's Exhibit 2-C received in evidence)

Q With respect to motions that may be made, in a case where there is a final sentence, are there motions that might follow a final sentence such as motions to reduce?

A There are motions that can follow a final sentence, yes.

Q And the purpose of those motions would be to try to reduce or change the sentence even if it is a legal sentence?

A No, that wouldn't be it. The motion would be to set aside a sentence, perhaps a motion to admit somebody to bail pending appeal, motions of that sort.

Q Setting aside --

1 GWJW  
2 A Newly discovered evidence is the only one  
3 I can think of offhand.

4 Q Can a defendant move to withdraw a guilty plea  
5 at any time?

6 A A defendant can move to withdraw a guilty  
7 plea, yes, and he can bring on a motion to set aside the  
8 judgment after sentence also, but that's what I referred  
9 to when I talked about newly discovered evidence. That's  
10 the only practical time.

11 Q That motion could be made for other reasons?

12 A Yes.

13 Q Do you remember being asked about your own  
14 political involvement in the Democratic party?

15 A Just now?

16 Q Yes.

17 A Of course, yes, surely.

18 Q And when you ran for office for surrogate  
19 and district attorney?

20 A Yes.

21 Q And when was that that you first ran as a  
22 Democratic candidate?

23 A I ran for surrogate in 1972; I ran for  
24 district attorney this past year this past campaign.

25 MR.SCHWARTZ: Your Honor, at this time the

1  
2 reoffers Exhibit 2-F.

3 THE COURT: I think it would be appropriate  
4 at this time to issue the cautionary instruction.

5 MR. SCHWARTZ: Yes.

6 THE COURT: Do you want to step to the side  
7 bar and take the matter up at this point?

8 (At the side bar)

9 MR. SCHWARTZ: Your Honor, the offer is being  
10 made on the basis that your Honor said was the only  
11 proper basis for this exhibit, and that is there has  
12 been a claim which has been raised in the cross examination  
13 that there is a recent motive to fabricate and that Mr.  
14 Shapiro did not report this to anyone, the existence of  
15 this note.

16 THE COURT: I think that is the clear  
17 implication of the cross examination. What cautionary  
18 instruction would you suggest?

19 MR. SCHWARTZ: I think the jury should be  
20 told that it is being admitted for them to use in  
21 assessing Mr. Shapiro's credibility.

22 THE COURT: And not for the truth of the  
23 matter asserted?

24 MR. SCHWARTZ: Yes, your Honor, although his  
25 verbal testimony is being admitted for that purpose.

1                   MR. PLATZMAN:     The jury has received  
2  
3 instructions as to his verbal testimony. It is being  
4 admitted as to the credibility of Mrs. Grant.

5                   MR. JOSSEN:     No.

6                   MR. PLATZMAN:   Now we are getting another  
7 document.

8                   THE COURT:     I am going to admit this exhibit  
9 because I do believe, and I think you had ever right to  
10 do it on cross examination, that the inference is left  
11 with the jury that this is a recent fabrication and in  
12 order to rebut that the government is entitled to  
13 introduce a document such as this subject to proper  
14 limiting instructions.

15                   I am prepared to admit this document and  
16 give the jury limiting instructions that it is admitted  
17 for the jury to use in assessing Mr. Shapiro's credibility  
18 and not for the truth of the matter asserted in the  
19 document.

20                   MR. PLATZMAN:   I am objecting once again  
21 to the admissibility of this document and in the event  
22 that it is admitted, and from your Honor's decision it  
23 will be, I make a nunc pro tunc motion for a mistrial  
24 on the ground it is highly prejudicial and any instruction  
25 or precautionary instruction would not erase the damage

1 that would be caused by the document.

2  
3 THE COURT: I would suggest that you have  
4 made a timely objection.

5 Is there anything else, gentlemen?

6 MR. SCHWARTZ: One thing. I wanted it to  
7 be clear that of course Mr. Shapiro's testimony is being  
8 offered for the truth of the matters he has asserted.  
9 It is just the document that is affected by the limiting  
10 instruction.

11 MR. PLATZMAN: Of course I object to that.  
12 My entire objection related to this conversation he is  
13 alleged to have had with this woman who identified  
14 herself as Mrs. Grant. I still object to that testimony.

15 THE COURT: I intend to instruct the jury to  
16 the effect that Mr. Shapiro's oral testimony is to be  
17 considered by them for all purposes or for the truth of  
18 the matters he has asserted.

19 MR. SCHWARTZ: Maybe you shouldn't say any-  
20 thing about his testimony. I think I was wrong in  
21 suggesting that.

22 THE COURT: I rethought the matter and agree  
23 with both counsel. I will just limit it to the document,  
24 as I have indicated. Counsel has made his objection to  
25 the admission of the document. So I would note for the

record that the objection is overruled.

MR. PLATZMAN: We have got nine minutes to get out.

(In open court)

THE COURT: Ladies and gentlemen, Government's Exhibit 2-F for identification is being received in evidence.

I instruct you that this document is being admitted for the jury to use in assessing Mr. Shapiro's credibility and not for the truth of the matters asserted in the document itself.

(Government's Exhibit 2-F received in evidence)

1 gwjw 1

Shapiro - redirect

815  
-16

2 Q Mr. Shapiro, Government's Exhibit 2-F,  
3 without telling us what the contents are, what is it?

4 A It is a memorandum. May I look at it to be  
5 sure?

6 Q Yes.

7 THE COURT: I think he went into that  
8 previously.

9 A Yes, this is the one I identified before.

10 THE COURT: You identified that previously?

11 THE WITNESS: Yes.

12 Q Is the language contained in the memorandum  
13 under the word "Message" your own characterization of  
14 what you heard?

15 A That's my summary of what I heard, yes.

16 MR. SCHWARTZ: I think I will pass it to  
17 the jury, your Honor, if I may.

18 THE COURT: I caution the jury that this  
19 document which is being passed to them should be used by  
20 the jury in assessing Mr. Shapiro's credibility and not  
21 for the truth of the matters asserted in the document.

22 (Pause)

23 MR. SCHWARTZ: I have no further questions,  
24 your Honor.

25 THE COURT: Mr. Platzman.

1 gwjw

Shapiro - recross

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2 MR. PLATZMAN: One or two quick questions.

3 RE CROSS EXAMINATION

4 BY MR. PLATZMAN:

5 Q Mr. Shapiro, when did you prepare that  
6 document?

7 A At the time of the telephone call.

8 Q Did you prepare it after that date?

9 A I prepared it at the time of the telephone  
10 call.

11 Q Does this come from a pad of some sort?

12 A No, sir, it comes --

13 MR. SCHWARTZ: Are we referring to Exhibit

14 2-F?

15 MR. PLATZMAN: Yes.

16 A That green form comes from a batch of loose  
17 forms that I used to keep on my desk and also in the  
18 bottom drawer of my desk. I used to keep them around  
19 by the hundred and make one on every phone call, every  
20 personal contact.

21 Q This is a printed up form?

22 A Mimeographed in the office, yes, sir.

23 Q By your office?

24 A My former office, yes, sir.

25 Q Your former office.

Did you ever consider it was important perhaps to number these in sequence?

A They are numbered in sequence when they are used for the purpose of opening a new file. Otherwise, the number of the case goes on it, supposed to go on it by the hand of one of the secretaries, and the form is placed in the file which I think is what happened with that one.

Q You are telling us this was prepared at the same time?

A Yes, sir.

MR. PLATZMAN: No other questions, your Honor.

THE COURT: Thank you, Mr. Shapiro. You are excused. You may leave.

(Witness excused)

THE COURT: Ladies and gentlemen, we are going to recess. According to the clock, it is one minute to five.

As you go home, the usual admonition will accompany you. Please do not discuss the case among yourselves, nor remain in the presence of any other person who may be discussing the case. In the event you learn anything about the case from any of the media

1 gwjw

318-619

2 or any source outside of this courtroom, you are directed  
3 to report the matter to me at once when you reassemble.

4 Finally, please keep an open mind on all  
5 facets of the case until the case has been concluded  
6 and given to you following my charge.

7 The jury is excused. You are directed to  
8 return to continue hearing this case tomorrow morning at  
9 10:00 a.m.

10 (Adjournment was taken to November 12,  
11 1975 at 10:00 o'clock a.m.)  
12  
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25

6)  
1 GWmch

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2 UNITED STATES OF AMERICA

3 v.

75 Crim. 630

4 WILLIAM E. DOULIN

5 10:00 a.m.

6 (Trial resumed)

7 (In open court; jury not present)

8 THE COURT: Good morning, everyone.

9 I understand that counsel wish to speak with  
10 the Court on some matter before the jury was brought out,  
11 so I have come out and I have instructed Miss Kruger  
12 to advise the jury that I am meeting with the attorneys  
13 and we will be resuming in a few minutes.

14 Is that satisfactory?

15 MR. SCHWARTZ: Yes, your Honor.

16 Your Honor, there are a few brief things.  
17 I have one and Mr. Jossen has a couple.

18 I don't know if the Court has a copy of the  
19 transcript of yesterday's proceedings. If not, I will hand  
20 my copy up to the Court.

21 THE COURT: I have the transcript in front of me.

22 MR. SCHWARTZ: I direct the Court's attention  
23 to Page 806, which is near the end of the transcript, a  
24 certain question posed by Mr. Platzman to Mr. Shapiro on  
25 cross-examination, Page 806, really beginning at Line 16.

1  
2 THE COURT: Yes?

3 MR. SCHWARTZ: In that series of questions, your  
4 Honor, Mr. Platzman was impeaching or attempting to impeach  
5 Mr. Shapiro, because Mr. Shapiro had not disclosed infor-  
6 mation that Mr. Platzman thought he should have disclosed  
7 at a very early stage and was saying Mr. Shapiro, in these  
8 questions, had made the same criticism of his opponent in  
9 the district attorney's race just concluded last week.

10 Your Honor, what Mr. Ritter, who is mentioned  
11 in the question on Page 806, knew which he did not disclose  
12 publicly and for which he was criticized by Mr. Shapiro,  
13 was the fact that Mr. Weissman had told Mr. Ritter that  
14 he had lied in the grand jury and then had gone back to  
15 the grand jury and redacted -- excuse me -- recanted or  
16 attempted to recant his confession.

17 We think that that opens the door to the  
18 admissibility of the confession as well as calling Mr.  
19 Shapiro back to ask him about that. We wanted to take it  
20 up first thing in the morning so if your Honor rules we  
21 can call Mr. Shapiro, we can have him come down immediately.  
22 He is some distance away.

23 THE COURT: First of all, I do not believe that  
24 that question opens the door to the admission of the  
25 Weissman confession. Second, as far as your recalling Mr.

2 Shapiro, it is my understanding that the defendant intends  
3 to put in a case.

4 MR. SCHWARTZ: Yes, your Honor.

5 THE COURT: Very well. In the event the defendant  
6 does, I will permit you to call Mr. Shapiro as a witness  
7 for whatever purpose you deem appropriate on rebuttal.  
8 I assume that the substance of the case will be gone into,  
9 and I will permit you to do it.

10 I would consider, if he is not truly a rebuttal  
11 witness, your application made now before the Government  
12 rested as an application to reopen the Government's direct  
13 case, and I would permit that to be done, and I would permit  
14 counsel to surrebut Mr. Shapiro.

15 So I don't believe it opens the door to the  
16 admission of the confession. I would permit Mr. Shapiro  
17 to be recalled for such proper examination as you wish.

18 Needless to say, this should have been gone into  
19 on redirect examination yesterday. However, I will not  
20 limit you and will permit you to recall him as a rebuttal  
21 witness, and if he is not purely a rebuttal witness, I will  
22 permit you to reopen the Government's case and then permit  
23 the defense to surrebut.

24 MR. SCHWARTZ: Thank you, your Honor.

25 THE COURT: Anything further?

MR. JOSSEN: May I have a moment, your HONor?

THE COURT: Yes.

(Pause)

MR. JOSSEN: Your Honor, just a few housekeeping matters before the jury is brought in.

First, counsel have executed a stipulation with respect to the accuracy of the transcription of the testimony in the grand jury of Mr. Doulin, and we would propose to hand it up now as Government's Exhibit 23 for identification.

THE COURT: That will do away with the necessity of calling the grand jury stenographer?

MR. JOSSEN: That is correct, your Honor.

THE COURT: We will mark that Court's Exhibit 2.

MR. JOSSEN: That's fine, your Honor. It has a Government exhibit.

MR. SCHWARTZ: It already has a Government exhibit, your Honor.

THE COURT: That is satisfactory.

THE CLERK: Is that received?

THE COURT: Yes.

There is no objection to that, is there, Mr. Platzman?

MR. PLATZMAN: No.

2 (Government's Exhibit No. 23 was received in  
3 evidence.)

4 MR. JOSSEN: Your Honor --

5 MR. PLATZMAN: That stipulation pertains strictly  
6 to the question of authenticity.

7 THE COURT: That is right.

8 Actually, all this does, it enables the transcript  
9 to be read to the jury without the foundation of a court  
10 reporter being put in first. The court reporter was  
11 present, took notes and accurately transcribed them.

12 That is a stipulation regarding the authenticity  
13 of the grand jury testimony. That is received; no  
14 objection.

15 MR. JOSSEN: Your Honor, in connection with  
16 reading the grand jury testimony, the Government has marked  
17 Government's Exhibits 24 and 25 for identification, which  
18 are the transcripts of Mr. Doulin's grand jury testimony  
19 from June 25, 1973 and February 12, 1975, respectively.

20 Now, the Government has previously supplied to  
21 Mr. Platzman a list of the excerpts which the Government  
22 intends to read to the jury and we propose to do it in  
23 the following manner:

24 Mr. Schwartz will take the part of the questioner  
25 in the grand jury and I will take the part of Mr. Doulin as

1 GWmch

2 a witness and read his answers from the witness stand as  
3 Mr. Schwartz reads the questions.

4 I would like to ask now on the record whether  
5 counsel has any objection to the portions of grand jury  
6 testimony which the Government has indicated we intend to  
7 read in the presence of the jury.

8 MR. PLATZMAN: I just haven't had a chance of  
9 reaching that as yet. Frankly, I was up until 3:00  
10 o'clock this morning. I just can't catch up with what has  
11 taken place.

12 What I do want to say is I told counsel yesterday  
13 that with respect to such testimony that they read I  
14 would then like to be able to read such other portions  
15 which would clarify and make them more meaningful, so that  
16 these questions and answers are not taken out of context.

17 THE COURT: You certainly are entitled to do that.  
18 I have no reason to believe that you should not.

19 The next question is when. Let me hear your  
20 application, I will hear the Government's comments on the  
21 when. Doing it, yes, absolutely. You have every right in  
22 the world if they read a portion of his grand jury testimony  
23 to read whatever other portion you wish. I will hear your  
24 application on when you would prefer to read it, and let's  
25 see what their position is.

1  
2 MR. PLATZMAN: I would like to read it just  
3 following the reading of their testimony. Otherwise,  
4 it is going to mean just a repetition. If I would have to  
5 do it again, I would have to read their testimony and say  
6 it is further explained by some other testimony and we would  
7 only go through the thing twice.

8 THE COURT: Very well. That's your application.  
9 Let me hear from the Government in response  
10 thereto.

11 I would suggest, Mr. Joseen, I am disposed to go  
12 along with that request. I wouldn't want you to break up  
13 your reading, but if you read your portion, I think fairness  
14 would or should permit the balance of whatever counsel  
15 wishes to read to be read by him in whatever form he wishes  
16 immediately following your presentation.

17 Let me hear your position on that.

18 MR. JOSSEN: Your Honor, we have no objection  
19 to that as long as we are supplied with adequate notice as  
20 to what portions Mr. Platzman intends to read so that we  
21 can have an opportunity to examine those portions and, if  
22 we believe it is necessary, to argue to your Honor as to  
23 whether those portions should be read.

24 I might suggest, your Honor, if Mr. Platzman  
25 could supply us with those excerpts now, we would be prepared

2 to read them when we read the portions which we intend  
3 to read to the jury this morning.

4 THE COURT: Mr. Platzman, are you in a position  
5 to do that? They are prepared to read not only their  
6 portion, but your requested portion as well. If you  
7 are in a position to furnish them with the excerpts that  
8 you would like read in addition to what they are proposing  
9 to read, they are prepared to do it, unless they have  
10 a particular objection to something and they will bring  
11 it to my attention.

12 Are you in a position to furnish them with the  
13 material you wish to have read?

14 MR. PLATZMAN: No, sir, not yet. I was given  
15 this list yesterday. It is an impossible amount of time.  
16 It isn't an adequate amount of time. It is one of the  
17 reasons I mentioned to your Honor briefly off the record  
18 yesterday. I intend at the conclusion of the Government's  
19 case, intend to seek a continuance for a short while,  
20 but I don't want to do it now. It has just been impossible  
21 to be able to go through it.

22 I have somebody helping me doing the extracting  
23 and at some point later today I hope to take a look at it  
24 to see what their testimony consists of, and what I would  
25 like to introduce in evidence to explain it.

1 GWmch

2 THE COURT: I am going to give you two options,  
3 actually three.

4 Number one, the first would be to accept Mr.  
5 Jossen's offer and tell them very shortly what you would  
6 want them to read. You apparently are not in a position  
7 to do that.

8 The second option would be for you to get up after  
9 they have and read whatever you wish to read.

10 The third option, which is not a desirable one,  
11 but it may be the best you can do because you are in a  
12 time bind, is for you to read what you wish to read during  
13 the defendant's case.

14 MR. PLATZMAN: It is not a question of an option.  
15 It may be, if I don't have the time or any recess of any  
16 sort to be able to do this, I may have to do it. It is not  
17 a question of even an option.

18 MR. JOSSEN: Your Honor, I might add that the  
19 Government expects to get to the reading of the grand  
20 jury testimony almost immediately after the jury is brought  
21 in.

22 THE COURT: Yes, I would have thought so. Let's  
23 discuss our time table on the record. We did have some  
24 discussions yesterday wherein I indicated that I was  
25 anxious to move the case to its ultimate conclusion, and

1 GWmch

2 have indicated on prior occasions, and have indicated  
3 during the course of this week that I am assigned as the  
4 Part I judge beginning on Monday morning. The assignment  
5 has been made for some time and you all know the respon-  
6 sibilities of the Part I judge.

7 We are down to what I believe is very close to  
8 the end of the Government's presentation.

9 What do you have outlined for this morning, Mr.  
10 Jossen?

11 (Continued on next page)  
12  
13  
14  
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25

MR. JOSSEN: Your Honor, the first matter of business will be to offer into evidence a stipulation of counsel with respect to certain credit card records which will then be introduced into evidence.

Following that, your Honor, we will have the reading of the portions of Mr. Doulin's grand jury testimony.

THE COURT: How long do you anticipate the reading will take?

MR. JOSSEN: I believe the reading should not take longer than a half hour at the outside.

Beyond that, your Honor, we have two other exhibits which were previously offered by the government. There are certain credit card records in connection with Mr. Weissman.

What we intend to do is to reoffer those exhibits this morning in the presence of the jury subject to connection and then, your Honor, we assume that out of the presence of the jury we will have three witnesses, two witnesses with respect to the question of materiality and a third witness who we believe will connect up the two exhibits to which I have just referred.

Following that, your Honor, we will make an offer with respect to the grand jury testimony of Mr. Weissman.

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2 Upon completion of that, the ruling on the  
3 admissibility of that, the government will be prepared  
4 to rest its case.

5 MR. PLATZMAN: Based on that, and essentially  
6 what was discussed yesterday, I have attempted to try to  
7 get ready to have some witnesses here at least at 2:00  
8 o'clock. We will try to proceed at that time depending  
9 upon your Honor's schedule with respect to the materiality  
10 question.

11 I have discussed with counsel my desire on that  
12 question to produce, request the government to produce  
13 a good deal of evidence, record and probably testimony.  
14 I have subpoenaed the FBI with respect to their records  
15 concerning their investigation at or about the time and  
16 prior to each of the two grand juries.

17 I want to know what facts they had any knowledge  
18 of, I want to know what the United States Attorney's  
19 office had by way of knowledge. I think that these  
20 questions will go to the question of materiality that  
21 your Honor says your Honor will determine as an issue of  
22 law.

23 THE COURT: I have reviewed the law on the  
24 subject. It does appear to me that it is within the  
25 exclusive province of the Court to rule on the question

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2 of materiality.

3 MR. PLATZMAN: Of course, we will have motions  
4 to dismiss that we would like to be heard on.

5 I think there is one other thing I just forgot  
6 about, that counsel called to my attention last night  
7 after we had all recessed and while we were examining  
8 the documents for the purpose of complying with the  
9 government's request and signing a stipulation with  
10 reference to these credit cards which I have done. I  
11 don't challenge their authenticity.

12 I think counsel brought to my attention that  
13 in the testimony of Mr. Shapiro, that he first made the  
14 complaint or discussed this report with him, that there  
15 had been attempted fix in the Monell case with the govern-  
16 ment, and that was in 1972. He gave some date in '72.  
17 Actually it was that same month in '73, not '72.

18 We had agreed that Mr. Shapiro -- his counsel  
19 asked me whether it was necessary to bring him back. I  
20 said no, we can make the statement before the jury and  
21 let the jury be instructed that the correct date was  
22 whatever the minutes show, 1973 instead of 1972.

23 Is that correct?

24 MR. SCHWARTZ: That is correct. The important  
25 thing to me, and I want the Court to know this, and I

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2 don't want the jury to be misled, that it was Mr. Shapiro  
3 who came back to me and said he realized the date was in  
4 error and corrected it himself. I think the jury should  
5 be told in some way that after court adjourned he  
6 told us that upon reflection he gave the date as 1972, and  
7 his recollection is that it was really 1973. We all  
8 agree that if he thought about it, he would have testified  
9 1973.

10 MR. PLATZMAN: I think it was Mr. Reutter who  
11 brought it to his attention first.

12 Am I correct?

13 MR. SCHWARTZ: That may be.

14 MR. PLATZMAN: Somebody told that to me.

15 MR. SCHWARTZ: I know he discussed it with  
16 Mr. Reutter and someone else. You may be right. Maybe  
17 they corrected him and he told me about it.

18 THE COURT: I think you have several ways to  
19 handle this. You can handle it with a formal written  
20 stipulation or an oral stipulation which can then be  
21 presented to the jury. You may choose not to get into the  
22 substance of the matter, but may stipulate that the record  
23 is deemed corrected to say 1973, and if anyone refers to  
24 the matter in summation, just to indicate that he made a  
25 complaint in 1973 and if, as and when the jury asks for

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2 that portion of the testimony to be read back, it can be  
3 corrected by stipulation and they can hear 1973.

4 I will do it any way you agree to do it.

5 In other words, I don't want to get involved  
6 in a hassle about how Mr. Shapiro came back, whether he  
7 was reminded of it by Mr. Reutter or not. I think we  
8 open more doors than we close.

9 I am prepared to do it the way which has been  
10 outlined. I would be prepared to accept a correction of  
11 the record by stipulation among counsel and have it  
12 presented in an alternative fashion such as I have out-  
13 lined. I have no instructions on the subject, no firm  
14 suggestion. I am prepared to do it in whatever way is  
15 fair, and if you agree on that way, I will certainly go  
16 along with you.

17 MR. PLATZMAN: I would like to suggest that  
18 the jury be advised truthfully as to what occurred without  
19 getting into all the details.

20 THE COURT: That is why a stipulation might  
21 be the best.

22 MR. PLATZMAN: I would like to see the jury  
23 instructed orally, that following yesterday's hearing Mr.  
24 Shapiro corrected his testimony from February 6, 1972,  
25 whatever that date is, to February 6, 1973 as the first

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2 time when he had advised the authorities concerning this  
3 conversation that he had.

4 MR. SCHWARTZ: I have no objection to it being  
5 stated that way.

6 Do you have the page in the transcript?

7 MR. PLATZMAN: No, I haven't looked at it yet.  
8 Perhaps we might physically make the change or I would  
9 be willing to perhaps sign a stipulation that the record --  
10 I would rather do it that way, sign a stipulation if  
11 counsel will have the facilities to prepare a very short  
12 stipulation correcting that page in the record.

13 THE COURT: I just happen to open the transcript  
14 to the page and line in question.

15 I believe page 807, line 15.

16 Would you just listen and I think that we have  
17 it here. I must say that it is unusual with a several  
18 hundred page transcript.

19 I'm reading line 15.

20 "I reported it to an FBI agent about February  
21 1972, when I found out that the Strike Force," and you  
22 see the rest of the answer there. I believe that is the  
23 answer to which reference has been made.

24 MR. SCHWARTZ: That is correct, your Honor.

25 MR. PLATZMAN: I think the jury might then be

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2 told that he testified yesterday that he reported to the  
3 FBI agent in February of 1972 and he corrects his testimony  
4 that he reported to the FBI agent in February 1973.

5 THE COURT: Is that agreeable?

6 MR. SCHWARTZ: Yes, it is.

7 MR. PLATZMAN: Yes, your Honor.

8 THE COURT: Very well.

9 Is there anything further, gentlemen?

10 MR. JOSSEN: One moment, if your Honor please.

11 (Pause)

12 MR. JOSSEN: Your Honor, one final matter of  
13 housekeeping.

14 It is our understanding that in view of some  
15 of the matters which we presumably will be arguing before  
16 your Honor out of the presence of the jury, that the  
17 government will not rest in the presence of the jury this  
18 morning, but will wait until sometime after the luncheon  
19 recess to do that.

20 THE COURT: Let's see how we are doing after  
21 an hour or so, where we are at that point. It is now going  
22 on 10:30.

23 I plan to recess for lunch at 12:15.

24 We will see where we are at that point. I want  
25 to let the morning's activities develop and you might, Miss

Kruger, indicate to the jury that they will be coming in in about five minutes and they will sit continuously until approximately 12:15 when we will recess until lunch, so they may want to use the facility now before they come out.

Is that agreeable?

MR. PLATZMAN: Yes. The recess will be from 12:15 to 2:00?

THE COURT: To approximately 2:15.

MR. PLATZMAN: 2:15.

THE COURT: I am looking at the one instruction that I will give to the jury. I might suggest what I intend to do relative to Mr. Shapiro's testimony is to indicate that yesterday on cross examination Mr. Shapiro was asked if he ever reported this incident to anyone and he indicated he had reported it to an FBI agent about February 1972.

Following yesterday's testimony from about February 1972 to about February 1973.

Is that agreeable, gentlemen?

MR. SCHWARTZ: I believe it was on redirect, your Honor.

THE COURT: It was. I am sorry. I was looking at the page and it said cross/redirect at the top. Yes,

on redirect. I will make that change. Other than that,  
is it satisfactory?

MR. SCHWARTZ: Yes, it is, your Honor.

MR. PLATZMAN: Yes, it is, your Honor. Thank  
you.

THE COURT: Thank you.

(Jury present)

THE COURT: Good morning, ladies and gentlemen.

Since your arrival this morning I have been  
engaged in the courtroom with certain legal matters which  
of necessity took place outside the presence of the jury.  
We will now resume.

I anticipate based on the number of matters  
that I have gone over with counsel that there will be  
portions of today which will of necessity be devoted to  
matters which will take place outside the presence of the  
jury.

We will try to work a schedule which will be  
as convenient as possible to you and at the same time  
will permit us to do those matters and take care of those  
matters which of necessity must be taken care of outside  
the presence of the jury.

Before we begin this morning there is one matter  
which I would bring to your attention.

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2 On redirect examination late yesterday after-  
3 noon Mr. Shapiro was asked by Mr. Schwartz whether he  
4 reported his conclusions to anyone.

5 He asked, and I am reading from page 807,  
6 line 15 of the record, "I reported it to an FBI agent  
7 about February 1972."

8 There is more in the answer, but that is the  
9 only portion I am going to read at this time.

10 Following yesterday's testimony Mr. Shapiro  
11 corrected his testimony from about February 1972 to  
12 about February 1973.

13 So that we have agreed that that answer should  
14 be corrected and the portion which I read is corrected to  
15 read "I reported it to an FBI agent about February 1973."

16 The rest of the answer will stand.

17 MR. PLATZMAN: May it please the Court, I  
18 think your Honor may have erred.

19 In the initial portion of your Honor's state-  
20 ment, you said he reported his conclusions. I think that  
21 what we had reference there to was reported this telephone  
22 conversation.

23 THE COURT: I took it directly from the transcript.  
24 If you would come up here a moment. The question did not  
25 say that and, therefore, I used the language of the

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2 transcript.

3 MR. PLATZMAN: I'm sorry.

4 THE COURT: That is all right.

5 (Pause)

6 THE COURT: You had a chance to examine the  
7 transcript again, Mr. Platzman.

8 Are you agreeable to my having reported it and  
9 read it to the jury as I did?

10 MR. PLATZMAN: In that correct language, that  
11 is correct. Thank you, sir.

12 THE COURT: Is there anything further on this  
13 point, gentlemen?

14 MR. SCHWARTZ: No. Thank you, your Honor.

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